

<p style="text-align: center;">1</p> <p>343861 eb</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS, *</p> <p>Plaintiff, *</p> <p>VS. *</p> <p>ERIC H. HOLDER, JR., in his *</p> <p>official capacity as Attorney *</p> <p>General of the United States, *</p> <p>Defendant, *</p> <p>ERIC KENNIE, et al, *</p> <p>Defendant-Intervenors, *</p> <p>TEXAS STATE CONFERENCE OF NAACP * CASE NO.</p> <p>BRANCHES, et al, * 1:12-CV-00128</p> <p>Defendant-Intervenors, * (RMC-DST-RLW)</p> <p>TEXAS LEAGUE OF YOUNG VOTERS * THREE-JUDGE COURT</p> <p>EDUCATION FUND, et al, *</p> <p>Defendant-Intervenors, *</p> <p>TEXAS LEGISLATIVE BLACK CAUCUS, *</p> <p>et al, *</p> <p>Defendant-Intervenors, *</p> <p>VICTORIA RODRIGUEZ, et al *</p> <p>Defendant-Intervenors. *</p> <p>TELEPHONIC DEPOSITION OF SENATOR KENNETH LYNN ARMBRISTER UPON RECEIPT OF SIGNATURE, THE ORIGINAL OF THIS DEPOSITION WILL BE IN THE CUSTODY OF:</p> <p style="text-align: center;">Spencer R. Fisher, Esquire U.S. Department of Justice 950 Pennsylvania Avenue, NW Northwestern Building, Suite 7146 Washington, DC 20530</p> <p>Date Edith A. Boggs, CSR</p> <p>6-8-12 HOUSTON, TEXAS</p>	<p style="text-align: center;">3</p> <p>1 APPEARANCES</p> <p>2</p> <p>3</p> <p>4 ATTORNEY FOR PLAINTIFF, STATE OF TEXAS:</p> <p>5</p> <p>6 Office of the Attorney General of Texas</p> <p>7 P.O. Box 12548 (78711-2548)</p> <p>8 209 West 8th Street, 8th Floor</p> <p>9 Austin, Texas 78701</p> <p>10 By: Reynolds Bascom Brissenden, IV, Esquire</p> <p>11 (512) 936-1307</p> <p>12 reynolds.brissenden@aog.state.tx.us</p> <p>13</p> <p>14 ATTORNEYS FOR DEFENDANT, HOLDER, ET AL:</p> <p>15</p> <p>16 U.S. Department of Justice</p> <p>17 950 Pennsylvania Avenue, NW</p> <p>18 Northwestern Building, Suite 7146</p> <p>19 Washington, DC 20530</p> <p>20</p> <p>21 By: Spencer R. Fisher, Esquire,</p> <p>22 Jennifer Maranzano, Esquire,</p> <p>23 Angela Miller, Esquire,</p> <p>24 and Victor Williamson, Esquire</p> <p>25 (202) 305-7766</p> <p>spencer.fisher@usdoj.gov</p>
<p style="text-align: center;">2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 DEPOSITION OF SENATOR KENNETH LYNN ARMBRISTER</p> <p>9</p> <p>10</p> <p>11 DEPOSITION AND ANSWERS of SENATOR KENNETH LYNN</p> <p>12 ARMBRISTER, taken before Edith A. Boggs, a certified</p> <p>13 shorthand reporter in Harris County for the State of</p> <p>14 Texas, taken at the offices of Dechert, LLP, 300 West</p> <p>15 6th Street, Suite 2010, Austin, Texas, on the 8th day of</p> <p>16 June, 2012, between the hours of 9:25 a.m. and 4:59 p.m.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">4</p> <p>1 APPEARANCES (Continued)</p> <p>2</p> <p>3</p> <p>4 ATTORNEY FOR DEFENDANT-INTERVENORS, TEXAS LEAGUE OF</p> <p>5 YOUNG VOTERS EDUCATION FUND:</p> <p>6 Fried, Frank, Harris, Shriver & Jacobson, LLP</p> <p>7 One New York Plaza</p> <p>8 New York, New York 10004</p> <p>9 By: Adam Harris, Esquire</p> <p>10 (Present telephonically)</p> <p>11</p> <p>12 (212) 859-8000</p> <p>13 adam.harris@friedfrank.com</p> <p>14</p> <p>15 ALSO PRESENT:</p> <p>16</p> <p>17 David Morales, Esquire, Office of the Governor</p> <p>18 Jessica Olson, Esquire, Office of the Governor</p> <p>19</p> <p>20 REPORTED BY:</p> <p>21</p> <p>22 Ms. Edith A. Boggs</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: center;">5</p> <p>1 EXAMINATION INDEX</p> <p>2</p> <p>3 QUESTIONS BY PAGE</p> <p>4 Mr. Fisher 7</p> <p>5 Mr. Harris 226</p> <p>6 Mr. Fisher 231</p> <p>7</p> <p>8 INDEX OF EXHIBITS</p> <p>9</p> <p>10 NO. MARKED DESCRIPTION</p> <p>11 OR FIRST</p> <p>12 REFERENCED</p> <p>13 5 189 SB 14</p> <p>14 8 204 Texas Legislature Online History</p> <p>15 for SB 14</p> <p>16 28 138 HB 218</p> <p>17 29 162 SB 362</p> <p>18 44 114 HB 1706</p> <p>19 45 153 Declaration of Carlos Uresti</p> <p>20 163 162 Texas Legislature Online History</p> <p>21 for SB 362</p> <p>22 168 180 Senate Journal, Second Day,</p> <p>23 Wednesday, January 14, 2009</p> <p>24 170 186 Senate Rules adopted by 82nd</p> <p>25 Legislature January 19, 2011, Senate Resolution No. 36</p> <p>190 18 Second Amended Notice of Deposition</p> <p>191 114 Texas Legislature Online History</p> <p>for HB 1706</p>	<p style="text-align: center;">7</p> <p>1 PROCEEDINGS</p> <p>2 THE COURT REPORTER: Would counsel please</p> <p>3 introduces themselves for the record, and their</p> <p>4 affiliations.</p> <p>5 MR. FISHER: Yes, Spencer Fisher,</p> <p>6 representing the Attorney General of the United States.</p> <p>7 MS. MARANZANO: Jennifer Maranzano</p> <p>8 representing the Attorney General.</p> <p>9 MS. MILLER: Angela Miller representing the</p> <p>10 Attorney General.</p> <p>11 MS. OLSON: Jessica Olson, State of Texas.</p> <p>12 MR. MORALES: David Morales, Governor's</p> <p>13 Office.</p> <p>14 MR. BRISSENDEN: Reynolds Brissenden for the</p> <p>15 State of Texas and the witness.</p> <p>16 THE WITNESS: Senator Ken Armbrister,</p> <p>17 Legislative Director for the Governor's Office.</p> <p>18 SENATOR KENNETH LYNN ARMBRISTER</p> <p>19 was called as a witness and, being first duly sworn by</p> <p>20 the notary, testified as follows:</p> <p>21 EXAMINATION</p> <p>22 Q. (BY MR. FISHER) Good morning, sir.</p> <p>23 If I could have you state and spell your name for</p> <p>24 the record, please.</p> <p>25 A. Yes. Title Senator, first name Kenneth,</p>
<p style="text-align: center;">6</p> <p>1</p> <p>2 192 127 Texas Politics, Wednesday, May 4,</p> <p>3 2005</p> <p>4 193 129 Minutes, Senate Committee on State</p> <p>5 Affairs, Tuesday, April 18, 2006</p> <p>6 194 139 Texas Legislature Online History</p> <p>7 for HB 218</p> <p>8 195 190 2011 Session Accomplishments</p> <p>9 196 201 Article - After Six-Year Fight,</p> <p>10 Perry Signs Voter ID into Law</p> <p>11 197 211 Emergency legislation letter signed</p> <p>12 by Rick Perry dated January 20, 2011</p> <p>13 198 211 Senate Journal, Fourth Day, Monday,</p> <p>14 January 24, 2011</p> <p>15 310 25 Amended Notice of Deposition of</p> <p>16 Michael Schofield</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">8</p> <p>1 KENNETH, middle initial L, last name Armbrister,</p> <p>2 ARMBRISTER</p> <p>3 Q. Okay. Senator, I'll go over a few ground rules</p> <p>4 of the deposition today.</p> <p>5 First, obviously, you just gave your oath to</p> <p>6 testify truthfully, accurately and completely at all</p> <p>7 times. And you understand that, correct?</p> <p>8 A. I understand.</p> <p>9 Q. The court reporter sitting here to my right will</p> <p>10 prepare a transcript of everything that is said today.</p> <p>11 So, you must respond to my questions verbally. So, no</p> <p>12 head shaking. Even uh-huh or anything that's nonverbal</p> <p>13 is not acceptable because we can't make a transcript.</p> <p>14 So, you understand that as well?</p> <p>15 A. I understand.</p> <p>16 Q. And if you could please wait for me to finish my</p> <p>17 questions, and I'll try to do the same for you, wait for</p> <p>18 you to finish answering before I ask a question and that</p> <p>19 way, you know, when someone reads the transcript, it's</p> <p>20 clear who is speaking and when. Is that clear?</p> <p>21 A. That is clear.</p> <p>22 Q. And I'll try to ask clear questions at all times</p> <p>23 but I might not be successful at all times. So, if you</p> <p>24 don't understand a question, could you please let me</p> <p>25 know and I will do my best to make it clear for you?</p>

<p style="text-align: center;">9</p> <p>1 Okay?</p> <p>2 A. I will let you know.</p> <p>3 Q. And if you wish to stop and take a break at any</p> <p>4 time, let me know, and I'll try to accommodate you. If</p> <p>5 we're kind of in a line of questioning, I'll do my best</p> <p>6 to kind of wrap things up, and we can take a break.</p> <p>7 So, is that clear?</p> <p>8 A. That's clear.</p> <p>9 Q. Do you have any questions about any of the</p> <p>10 instructions, basic ground rules?</p> <p>11 A. I have no questions.</p> <p>12 Q. Are you on any medication today that would affect</p> <p>13 your ability to testify?</p> <p>14 A. No.</p> <p>15 Q. And is there any reason why you can't testify</p> <p>16 truthfully and accurately today?</p> <p>17 A. No.</p> <p>18 Q. So, I might use the term "voter ID" during this</p> <p>19 deposition, and I want you to interpret this term</p> <p>20 broadly to mean a requirement that a voter present a</p> <p>21 form of identification, whether it has a photo on it or</p> <p>22 otherwise, prior to voting. Does that make sense?</p> <p>23 A. Yes.</p> <p>24 Q. And then I'll also use the term "photo ID," and</p> <p>25 that references a requirement that a voter show a photo</p>	<p style="text-align: center;">11</p> <p>1 we go along but I will at all times try to be clear when</p> <p>2 I'm referring to your actions, the actions of your staff</p> <p>3 or the action of the Governor's Office or the actions of</p> <p>4 the Governor.</p> <p>5 A. Okay.</p> <p>6 Q. And if that's not clear, can you please ask me to</p> <p>7 clarify, and I will do so?</p> <p>8 A. That's fair.</p> <p>9 Q. And when I refer to minority voters, I mean</p> <p>10 voters that are nonwhite, nonAnglo voters. Does that</p> <p>11 make sense?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Are you represented by counsel today?</p> <p>14 A. Yes, Reynolds --</p> <p>15 THE WITNESS: I forgot your last name.</p> <p>16 MR. BRISSENDEN: Brissenden.</p> <p>17 A. -- Brissenden, and accompanied with our General</p> <p>18 Counsel, David Morales, and Associate General Counsel,</p> <p>19 Jessica Olson.</p> <p>20 Q. (BY MR. FISHER) Okay. Senator, have you ever</p> <p>21 been deposed before?</p> <p>22 A. Yes, I have.</p> <p>23 Q. And can you tell me the circumstances of that</p> <p>24 deposition, please?</p> <p>25 Can you tell me the circumstances of that</p>
<p style="text-align: center;">10</p> <p>1 ID before voting. So, two different terms, voter ID and</p> <p>2 photo ID. I'll try to make it clear what I'm talking</p> <p>3 about.</p> <p>4 A. Yes. Question, when you mentioned that term</p> <p>5 "photo ID," the bill that was passed only identified</p> <p>6 certain photo identifications, in other words, I</p> <p>7 couldn't use a Wal-Mart card.</p> <p>8 Q. Correct.</p> <p>9 A. So --</p> <p>10 Q. Yes. And when we get to the bills -- I actually</p> <p>11 have the bills here with me. You notice this lovely</p> <p>12 folder on the desk here, and I actually have the text of</p> <p>13 the bills, and we can walk through some of that, and I</p> <p>14 think it will all be clear at that time. We'll make</p> <p>15 clear what we're talking about at the time is what the</p> <p>16 bills required and what they referred to at all times.</p> <p>17 A. I see.</p> <p>18 Q. Is all that clear?</p> <p>19 A. Yes, that's clear.</p> <p>20 Q. I might also refer to the Governor, the</p> <p>21 Governor's staff, your staff or yourself and, again,</p> <p>22 this being the beginning of the deposition, I'm not a</p> <p>23 hundred percent clear if you even have staff or, you</p> <p>24 know, how many folks you manage. We'll get to those</p> <p>25 questions, and it will be a little bit easier for me as</p>	<p style="text-align: center;">12</p> <p>1 deposition, please?</p> <p>2 A. Yes, I can. I have a question.</p> <p>3 Q. Sure.</p> <p>4 A. Do you want to divide between criminal and civil?</p> <p>5 Q. I think that's another question but sure, we can</p> <p>6 go with criminal first and then civil.</p> <p>7 A. Only reason I ask, from June of 1969 until</p> <p>8 January of 1983, I was in law enforcement. So, there</p> <p>9 were many cases where I guess you could call it a</p> <p>10 deposition but we were involved with a similar process</p> <p>11 on the criminal side.</p> <p>12 Since that period of time -- I'm trying to think</p> <p>13 of the date -- I was involved with a civil lawsuit</p> <p>14 involving a franchise business where the franchisor took</p> <p>15 us, the franchisee, to court, and there were depositions</p> <p>16 involved in it, on a dispute of the franchise agreement</p> <p>17 language.</p> <p>18 Q. Do you know about what date that was?</p> <p>19 A. It was in the '90s. I'm not sure exactly what</p> <p>20 period of time that was.</p> <p>21 Q. Okay. So, it's fair to --</p> <p>22 A. It was a federal court proceeding in Beaumont,</p> <p>23 Texas.</p> <p>24 Q. So, it's fair to say numerous cases in the '70s,</p> <p>25 early '80s as a member of law enforcement and then a</p>

<p style="text-align: center;">13</p> <p>1 civil case in the '90s where you were deposed in a</p> <p>2 franchisee/franchisor dispute in federal court, is that</p> <p>3 fair?</p> <p>4 A. That's correct.</p> <p>5 Q. And have you testified in court before, as a</p> <p>6 member of law enforcement or otherwise?</p> <p>7 A. In law enforcement, many times at all three</p> <p>8 levels. In Texas, you have municipal courts, county</p> <p>9 courts and then state district courts. And in law</p> <p>10 enforcement, various cases that I had worked on over</p> <p>11 that 14-year period, I had to testify in court as either</p> <p>12 the investigative officer or the arresting officer or</p> <p>13 one of those type situations.</p> <p>14 Q. And after you left law enforcement?</p> <p>15 A. No. I did serve on a jury.</p> <p>16 Q. Okay. So, were you a party to the suit that you</p> <p>17 mentioned in the '90s or were you just part of the case?</p> <p>18 A. I was part. My brother-in-law and I had a</p> <p>19 Precision Tune franchise, and it was a disagreement over</p> <p>20 a section of the franchise agreement. And we were sued</p> <p>21 for failing to comply with the franchise agreement but</p> <p>22 we won.</p> <p>23 Q. So, you were a defendant in that case?</p> <p>24 A. Yes.</p> <p>25 Q. And I'm guessing the plaintiff was the</p>	<p style="text-align: center;">15</p> <p>1 review any documents?</p> <p>2 A. No.</p> <p>3 Q. And other than your attorneys, did you speak to</p> <p>4 anyone else about your deposition today?</p> <p>5 A. No. I told my wife that I would be in a</p> <p>6 deposition.</p> <p>7 Q. That's a fairly typical answer. It's also</p> <p>8 probably a good idea.</p> <p>9 A. Yeah.</p> <p>10 Q. And did you bring any notes or documents with you</p> <p>11 today?</p> <p>12 A. No.</p> <p>13 Q. So, a few words about privilege. I'll be asking</p> <p>14 you questions today, and I'll be doing so in conformance</p> <p>15 with recent court orders. We had an order on June 5th.</p> <p>16 We had an order yesterday addressing privilege issues.</p> <p>17 And I will seek to ask questions that are in compliance</p> <p>18 with those orders.</p> <p>19 Is it your understanding that as an employee of</p> <p>20 the Governor's Office, you may assert or invoke a</p> <p>21 privilege in response to my questions?</p> <p>22 A. Yes.</p> <p>23 Q. And do you know the privilege that you will be</p> <p>24 invoking?</p> <p>25 A. In laymen's terms. I'm not an attorney. So, I</p>
<p style="text-align: center;">14</p> <p>1 franchisor?</p> <p>2 A. Right.</p> <p>3 Q. The main company whoever franchised?</p> <p>4 A. Right.</p> <p>5 Q. So, what did you do to prepare for today's</p> <p>6 deposition?</p> <p>7 A. Visited with my attorneys.</p> <p>8 Q. And who were the attorneys that you visited with?</p> <p>9 A. This gentleman to my right, Reynolds --</p> <p>10 THE WITNESS: Excuse me.</p> <p>11 MR. BRISSENDEN: That's okay.</p> <p>12 A. And our General Counsel, David Morales.</p> <p>13 Q. (BY MR. FISHER) And was this just one meeting</p> <p>14 with those attorneys?</p> <p>15 A. Counting today, there would have been two.</p> <p>16 Q. And was there anyone else present besides those</p> <p>17 attorneys?</p> <p>18 A. There was a young lady, Brooke.</p> <p>19 THE WITNESS: In you all's office.</p> <p>20 A. And then another gentleman, John.</p> <p>21 Q. (BY MR. FISHER) Okay.</p> <p>22 A. And I don't know their last names, or I don't</p> <p>23 recall it.</p> <p>24 Q. And during this meeting, not the meeting today</p> <p>25 but the previous meeting that you referred to, did you</p>	<p style="text-align: center;">16</p> <p>1 don't know the legal parts of it. I'll have to rely on</p> <p>2 my attorney for that.</p> <p>3 Q. And you said you weren't an attorney, so, I'm</p> <p>4 assuming you haven't reviewed any of the Court's orders</p> <p>5 regarding privileges; is that correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And have you reviewed any of the parties' briefs</p> <p>8 regarding privilege in this case?</p> <p>9 A. I don't know exactly what a brief is but no.</p> <p>10 Q. It's a written document just describing the</p> <p>11 parties' positions on certain legal issues.</p> <p>12 A. No.</p> <p>13 Q. And you mentioned that you don't know exactly</p> <p>14 what the term or legal term is for the privilege that</p> <p>15 you're asserting but are you aware that you've asserted</p> <p>16 some kind of privilege over documents and materials that</p> <p>17 might be in you or your staff's possession?</p> <p>18 A. Go a little further. I'm not --</p> <p>19 Q. I can clarify. And thank you for asking.</p> <p>20 A. Okay.</p> <p>21 Q. This is one of the times where you can ask me to</p> <p>22 clarify my question, and I'll do the best to make it</p> <p>23 clear.</p> <p>24 A. Okay.</p> <p>25 Q. I know you just indicated that you weren't sure</p>

<p style="text-align: center;">17</p> <p>1 exactly what the legal term was for the privilege that</p> <p>2 you will be asserting.</p> <p>3 A. Right.</p> <p>4 Q. But you do know that there's a privilege involved</p> <p>5 here with your work?</p> <p>6 A. I've been told that.</p> <p>7 Q. Do you know if that privilege was asserted with</p> <p>8 regard to documents that are in your possession or in</p> <p>9 the possession of your staff in the Governor's Office?</p> <p>10 A. I don't know that.</p> <p>11 Q. So, you don't know if you've asserted a privilege</p> <p>12 over any documents or materials in your possession or in</p> <p>13 the possession of the Governor's staff?</p> <p>14 A. No.</p> <p>15 Q. Do you understand that your attorneys may have</p> <p>16 invoked a privilege that prevented certain documents</p> <p>17 from being turned over that were in your possession or</p> <p>18 in the possession of your staff to the United States in</p> <p>19 this case?</p> <p>20 A. I don't -- I don't know what the attorneys did.</p> <p>21 Q. Okay. Well, I think you've indicated -- you've</p> <p>22 made it clear you will be asserting a privilege over</p> <p>23 certain responses in your testimony today; is that</p> <p>24 correct?</p> <p>25 A. Depends on the question.</p>	<p style="text-align: center;">19</p> <p>1 A. No. My question was this was the first one that</p> <p>2 came to us back a couple of weeks ago that was --</p> <p>3 well --</p> <p>4 Q. I think the only difference between this</p> <p>5 document -- there was another document produced</p> <p>6 regarding the location change from the U.S. Attorney's</p> <p>7 Office to this law firm but I believe this document is</p> <p>8 the document that would have been in existence a couple</p> <p>9 of weeks ago.</p> <p>10 A. Okay. I haven't -- this is the first time I've</p> <p>11 seen this one.</p> <p>12 Q. Okay.</p> <p>13 A. But the one I saw with today's date, what I was</p> <p>14 looking at, it had the wrong floor and room number on</p> <p>15 it. It had 210 rather than 2010. So --</p> <p>16 Q. Senator, I'm glad we all got to the right place</p> <p>17 today. And, you know, you can check me on this but I</p> <p>18 think that what might have changed is just the</p> <p>19 location --</p> <p>20 A. Right.</p> <p>21 Q. -- and date but I think that the rest of the</p> <p>22 document would have remained the same.</p> <p>23 A. Okay. Yeah.</p> <p>24 Q. So, let's go ahead and take a look. And if you</p> <p>25 look on Page 5, you'll see a header titled Documents?</p>
<p style="text-align: center;">18</p> <p>1 Q. If you'd like to waive your privilege in response</p> <p>2 to any question, you let me know.</p> <p>3 A. I will.</p> <p>4 Q. All right.</p> <p>5 (Off the record.)</p> <p>6 MR. FISHER: I believe we were joined by</p> <p>7 another attorney. If we could have that attorney</p> <p>8 identify themselves, please.</p> <p>9 MR. WILLIAMSON: My name is Victor</p> <p>10 Williamson. I'm with the U.S. Department of Justice.</p> <p>11 THE WITNESS: I'm Ken.</p> <p>12 MR. WILLIAMSON: Pleasure to meet you.</p> <p>13 (Exhibit 190 marked.)</p> <p>14 Q. (BY MR. FISHER) Senator, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Senator, I'm going to hand you what's been marked</p> <p>17 as Exhibit 190. It is a seven-page document, and it's</p> <p>18 titled Second Amended Notice of Deposition. And do you</p> <p>19 recognize this document? Have you seen it before?</p> <p>20 A. Yes. This was the first document that I've</p> <p>21 seen --</p> <p>22 Q. Okay. So, you --</p> <p>23 A. -- of this nature?</p> <p>24 Q. So, you have not seen it before, this is the</p> <p>25 first time you saw it?</p>	<p style="text-align: center;">20</p> <p>1 A. Yes.</p> <p>2 Q. And have you looked at this information under the</p> <p>3 header Documents before?</p> <p>4 A. On previous like documents, yes.</p> <p>5 Q. But on this document?</p> <p>6 A. Well, being the first time I've seen it, I would</p> <p>7 have to --</p> <p>8 Q. So, by "previous like documents," you mean the</p> <p>9 ones where the location or the time might have been</p> <p>10 different?</p> <p>11 A. Yeah, or two weeks ago. And let me say I do</p> <p>12 appreciate you all affording me last week. It was a</p> <p>13 family funeral that I had to attend. So, I had to</p> <p>14 change until today. So, I appreciate you all's</p> <p>15 indulgence in that.</p> <p>16 So, when you asked me, I think this chart under</p> <p>17 Documents is the same as it's always been.</p> <p>18 Q. Okay.</p> <p>19 A. So, yes, I've seen these.</p> <p>20 Q. And I do appreciate the fact that, you know, we</p> <p>21 did have to reschedule, and I'm sorry about the</p> <p>22 circumstances of that.</p> <p>23 MR. FISHER: I think we do need to take a</p> <p>24 quick break right here.</p> <p>25 (Short recess.)</p>

<p style="text-align: center;">21</p> <p>1 Q. (BY MR. FISHER) All right, sir. I want to be 2 respectful of your time, obviously. 3 So, we were talking about the Documents header on 4 Page 5. You said that you had seen this before. So, 5 just generally, did you undertake a search for the 6 documents that are referred to under the Documents 7 header? 8 A. Yes. 9 Q. Okay. Can you describe that search, who 10 conducted it? 11 A. I did. I looked through my files for any of 12 these 1 through 12 items. 13 Q. And did anyone else -- was it just you that 14 conducted that search? 15 A. Of my things in my possession, yes. 16 Q. And were there things that were not in your 17 possession that were searched for as well underneath 18 this Documents header? 19 A. Not by me. 20 Q. Okay. Who searched for those? 21 A. I guess everybody that got one of these notices. 22 Q. So, it's possible that if a notice was given to 23 someone else in the Governor's Office, they searched for 24 records but you're not sure of that -- 25 A. No.</p>	<p style="text-align: center;">23</p> <p>1 responsive to number 3? 2 A. Yes. 3 Q. And did you find anything responsive to that 4 question? 5 A. No. 6 Q. And number 4, you conducted that search as well, 7 correct? 8 A. Yes. 9 Q. And did you find anything responsive to that 10 question? 11 A. No. 12 Q. Number 5, you conducted that search as well, 13 correct? 14 A. Correct. 15 Q. And did you find anything responsive to number 5? 16 A. No. 17 Q. And number 6, you conducted that search, correct? 18 A. I did. 19 Q. And did you find anything responsive to number 6? 20 A. No. 21 Q. And number 7, you conducted a search for 22 documents responsive to number 7, correct? 23 A. Correct. 24 Q. And did you find anything responsive to number 7? 25 A. No.</p>
<p style="text-align: center;">22</p> <p>1 Q. -- is that correct? 2 A. No. 3 Q. So, as we sit here today, the only thing that you 4 know is that you searched for the documents that you had 5 that were responsive to -- I guess it's 1 through 12 6 on -- underneath the Documents header; is that correct? 7 A. That's correct. 8 Q. So, we'll go through these quickly, and if you 9 could just verify for me that you searched for the 10 documents. 11 So, with regard to number 1, if you would take a 12 look at that, and you can read it quickly. I know 13 you've seen it before. So, you searched for the 14 documents that were responsive to number 1; is that 15 correct? 16 A. That's correct. 17 Q. Okay. And did you find anything that was 18 responsive to number 1? 19 A. No. 20 Q. And with regard to number 2, did you conduct a 21 search for those documents? 22 A. Yes, I did. 23 Q. And did you find anything responsive to those? 24 A. No. 25 Q. Number 3, did you conduct a search for documents</p>	<p style="text-align: center;">24</p> <p>1 Q. And number 8, you conducted a search for 2 documents responsive to number 8, correct? 3 A. Correct. 4 Q. And did you find anything responsive to number 8? 5 A. No. 6 Q. Number 9, you conducted a search for documents 7 responsive to number 9, correct? 8 A. Correct. 9 Q. And did you find anything responsive to number 9? 10 A. No. 11 Q. And number 10, you conducted a search for 12 documents responsive to number 10, correct? 13 A. Correct. 14 Q. Did you find anything responsive to number 10? 15 A. No. 16 Q. And number 11, you conducted a search for 17 documents responsive to number 11, correct? 18 A. Correct. 19 Q. And did you find anything responsive to number 20 11? 21 A. No. 22 Q. And, lastly, number 12, you conducted a search 23 for documents responsive to number 12, correct? 24 A. Correct. 25 Q. And did you find anything responsive to number</p>

<p style="text-align: center;">25</p> <p>1 12?</p> <p>2 A. No.</p> <p>3 Q. So, I'm now -- you can put that aside, please,</p> <p>4 and I'm going to hand you what's been previously</p> <p>5 marked -- I'm going to hand you what's been previously</p> <p>6 marked as Exhibit 310. And this is an amended notice of</p> <p>7 deposition, much like the one I just gave you. You'll</p> <p>8 notice on the second page instead of your name appearing</p> <p>9 there, you'll see a different name, and the name that</p> <p>10 appears there is Michael Schofield. Do you know who</p> <p>11 Michael Schofield is? It's on the third line down.</p> <p>12 You're on the right page. Third line down in the bold</p> <p>13 letters.</p> <p>14 A. Yes. Uh-huh.</p> <p>15 Q. Do you know Michael Schofield?</p> <p>16 A. Yes.</p> <p>17 Q. Who is he?</p> <p>18 A. Michael was an employee with the Governor's</p> <p>19 Office and was one of the analysts -- or the analyst</p> <p>20 over this particular field of bills that came in</p> <p>21 involving elections.</p> <p>22 Q. And does he still work for the Governor?</p> <p>23 A. No.</p> <p>24 Q. And do you know approximately when he left?</p> <p>25 A. The closest I can get is sometime in 2011.</p>	<p style="text-align: center;">27</p> <p>1 through 12 of this Amended Notice of Deposition for</p> <p>2 Michael Schofield?</p> <p>3 MR. BRISSENDEN: Objection to the extent the</p> <p>4 question mischaracterizes the testimony of Mr. Schofield</p> <p>5 but you can answer.</p> <p>6 Q. (BY MR. FISHER) You can answer, Senator.</p> <p>7 A. Okay. No, I don't know if a search was made of</p> <p>8 his documents.</p> <p>9 Q. So, you can set that aside, Senator.</p> <p>10 Do you know is there a person in the Governor's</p> <p>11 Office who is the central point of contact for</p> <p>12 maintaining records?</p> <p>13 A. Yes.</p> <p>14 Q. And who would that be?</p> <p>15 A. I don't know if it's our HR -- well, I don't know</p> <p>16 who it is, the actual person's name but somebody is</p> <p>17 assigned that task, whether it's IT people or somebody</p> <p>18 in the General Counsel's office.</p> <p>19 Q. So, if someone -- and we can use Mr. Schofield as</p> <p>20 an example. If someone leaves the office -- you know,</p> <p>21 if you were to ever leave the office or someone leaves</p> <p>22 the office, what do they do with the records that are in</p> <p>23 their possession that they've been working on? I guess,</p> <p>24 what happens to that material?</p> <p>25 A. If it's official business, not personal</p>
<p style="text-align: center;">26</p> <p>1 Q. Okay.</p> <p>2 A. I don't know exactly when he left.</p> <p>3 Q. First six months of the year?</p> <p>4 A. No, because we were in session.</p> <p>5 Q. So, probably second half of the year?</p> <p>6 A. It's from June -- probably from July on.</p> <p>7 Q. So, he left sometime between July and December of</p> <p>8 2011; is that correct?</p> <p>9 A. I would think, yes.</p> <p>10 Q. So, if we could turn to, again, the Documents</p> <p>11 header, and that will be on Page 5. It's going to look</p> <p>12 similar to the notice that had your name on it.</p> <p>13 A. Okay.</p> <p>14 Q. You found that. So, Mr. Schofield noted that he</p> <p>15 had searched his own files for documents that were</p> <p>16 responsive to the requests underneath the Documents</p> <p>17 header but since he had left the Governor's Office --</p> <p>18 and we know, based on your testimony, he did leave --</p> <p>19 that he was not able to conduct a search of documents</p> <p>20 that were responsive to items 1 through 12 of his</p> <p>21 amended notice.</p> <p>22 A. Okay.</p> <p>23 Q. He was unaware if a search had been conducted or</p> <p>24 not. Do you know if a search was conducted by the</p> <p>25 Governor's staff for documents responsive based on 1</p>	<p style="text-align: center;">28</p> <p>1 possessions, it would be -- I don't want to call them a</p> <p>2 team because there's not really a team but, obviously,</p> <p>3 the General Counsel's office, any -- the Policy Director</p> <p>4 of the Budget Planning & Policy Division, and then Greg</p> <p>5 Davidson, our General Clerk, has official documents.</p> <p>6 Q. I think I count three things there. Is it</p> <p>7 General Counsel, Budget Planning & Policy, and then Greg</p> <p>8 Davis? Are those three separate things --</p> <p>9 A. Yes.</p> <p>10 Q. -- the General Counsel, Budget Planning & Policy</p> <p>11 and then Greg Davis?</p> <p>12 A. Right. Those are various divisions within the</p> <p>13 Governor's Office.</p> <p>14 Q. So, as we sit here today, you don't know if a</p> <p>15 search was conducted for documents responsive to the</p> <p>16 Amended Notice of Deposition by these folks either</p> <p>17 for -- let's ask first for your documents, correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Because you've conducted your own search,</p> <p>20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And then you don't know if anyone in that -- in</p> <p>23 those capacities did a search for documents for someone</p> <p>24 who had left, like Michael Schofield, based on the</p> <p>25 Amended Notice that I handed you?</p>

<p style="text-align: center;">29</p> <p>1 A. That's correct.</p> <p>2 Q. So, is there an ongoing retention policy? So, is</p> <p>3 there something written down somewhere where it says</p> <p>4 that you need to hang on to E-mails, drafts, notes,</p> <p>5 reports or other documents in the Governor's Office?</p> <p>6 A. It depends on the nature of the document.</p> <p>7 Obviously --</p> <p>8 Q. Let me hold you there, and we'll just start with</p> <p>9 E-mails.</p> <p>10 A. E-mails, we -- I don't know so much if it's an</p> <p>11 official written policy as it is the nature of the</p> <p>12 server that we have retains them for seven days. We're</p> <p>13 told if you have something you want to keep, you need to</p> <p>14 print it out or it's wiped out in seven days.</p> <p>15 Q. Can you archive E-mails?</p> <p>16 A. I would assume that you could.</p> <p>17 Q. Do you know what I mean by archiving an E-mail?</p> <p>18 A. Yes.</p> <p>19 Q. So, I guess the main way to retain E-mails is to</p> <p>20 print them out; is that correct?</p> <p>21 A. If you want to, or you could use the archive.</p> <p>22 Q. And when you did the search for the documents</p> <p>23 that were responsive to the Amended Notice of Deposition</p> <p>24 in your case, did you search your printed E-mails as</p> <p>25 well as the archived E-mails you might have?</p>	<p style="text-align: center;">31</p> <p>1 those retained somewhere?</p> <p>2 A. Not in our office.</p> <p>3 Q. Okay. Where are they retained?</p> <p>4 A. I would assume with the service that we pay for</p> <p>5 to track the bills.</p> <p>6 Q. What service is that?</p> <p>7 A. Telecon.</p> <p>8 Q. And does Telecon receive paper documents from</p> <p>9 your office?</p> <p>10 A. Not that I know of.</p> <p>11 Q. Do they receive electronic documents from your</p> <p>12 office?</p> <p>13 A. If there's a format -- I don't know if I'm</p> <p>14 qualified to answer because I don't even have a password</p> <p>15 for it. If I need something off of it, I call the</p> <p>16 analyst and say, "What do you have on this bill," but</p> <p>17 the ones I have seen before, there's just a format on a</p> <p>18 screen and you fill in the blanks. It has various</p> <p>19 questions on any bill that's going through the process,</p> <p>20 what does the bill do, how does it change law, does it</p> <p>21 amend the constitution, da, da, da. It's a checklist,</p> <p>22 if you will.</p> <p>23 Q. And is that -- the policy analysis or bill</p> <p>24 analysis, is that something that, for instance,</p> <p>25 Mr. Schofield would work on, a policy analyst; is that</p>
<p style="text-align: center;">30</p> <p>1 A. I did the printed. I didn't do the archived</p> <p>2 because I don't archive.</p> <p>3 Q. What about written correspondence, correspondence</p> <p>4 that comes from constituents or otherwise to the</p> <p>5 Governor's Office?</p> <p>6 A. That goes to Greg Davidson, who is the -- he's</p> <p>7 the Director of -- his official title, I believe, is</p> <p>8 General Clerk but he also is the Director over</p> <p>9 Constituent Communications. That's the division name.</p> <p>10 Q. I had that name wrong earlier, and I apologize</p> <p>11 for that. It's Greg Davidson; is that correct?</p> <p>12 A. Davidson, that's correct, D A V I D S O N.</p> <p>13 Q. Now, what about speeches, drafts of speeches that</p> <p>14 the Governor has given, where would those materials be</p> <p>15 retained or are they retained? Is there any specific</p> <p>16 format?</p> <p>17 A. I don't know.</p> <p>18 Q. What about notes, notes that are taken in</p> <p>19 meetings, notes that are taken on telephone calls, any</p> <p>20 specific retention policy for that material?</p> <p>21 A. No.</p> <p>22 Q. What about reports, reports that are done, for</p> <p>23 instance -- we talked about Mr. Schofield briefly, we'll</p> <p>24 talk about him a little bit more but, for instance, his</p> <p>25 analyses of bills or other reports that are done, are</p>	<p style="text-align: center;">32</p> <p>1 correct?</p> <p>2 A. Yes.</p> <p>3 Q. What happens -- and we'll talk a little bit more</p> <p>4 about that. I do have more questions on that but what</p> <p>5 happens to that document? So, right now, we're just</p> <p>6 talking about retention. You know, after that is</p> <p>7 produced, where is it? What happens to it? Does it --</p> <p>8 A. I don't know.</p> <p>9 Q. Okay. Fair enough. That's fine.</p> <p>10 A. Yeah.</p> <p>11 Q. And do you know if there's any off site storage</p> <p>12 facility where the Governor's documents are sent?</p> <p>13 A. If they fall within the State's purview, they</p> <p>14 would go over to the Library and Archives.</p> <p>15 I don't know of any -- I've been in my position</p> <p>16 going on -- January will be five years. I've never</p> <p>17 heard of an off site storage facility other than those</p> <p>18 documents that, in the normal course of government</p> <p>19 business, automatically are sent over to the Library and</p> <p>20 Archives.</p> <p>21 Q. Have you sent anything over to the Library and</p> <p>22 Archives?</p> <p>23 A. I have not, not in this position.</p> <p>24 Q. In your position as a Legislator, did you send</p> <p>25 things over to Library and Archives?</p>

33

1 A. Once I retired, then -- I mean, I was in the
2 Legislature 24 years. So, my staff, every so often,
3 with the State's policy, would move things over.

4 Q. So, I'm assuming over 24 years, you had 1 or 2
5 documents you had to send over; is that correct?

6 A. That's correct.

7 Q. Or maybe 1 or 2 million documents you had to send
8 over.

9 So, let's move away from records and retention.

10 A. Okay.

11 Q. I notice some sleepy eyes in the room after
12 discussing that in detail.

13 Can you tell me a little bit about your
14 educational background, Senator?

15 A. Yes. How far back do you want to go?

16 Q. We can start with college undergraduate.

17 A. Okay. You don't want to hear about public school
18 and all that.

19 I have an undergraduate from Sam Houston State
20 University and graduate studies while I was attending
21 the FBI National Academy through the University of
22 Virginia.

23 Q. And can you tell me a little bit about the FBI
24 Academy? Under what circumstances did you go? Did you
25 get a certification? Were you ever -- let me ask you

34

1 first -- I'm sorry for the multiple questions.

2 A. Sure.

3 Q. Did you ever serve with the FBI?

4 A. No.

5 Q. So, what were the circumstances of you going to
6 the FBI Academy and getting a certification?

7 A. There were -- at the time, 1975, there were two
8 ways to become an agent. One is to apply directly. And
9 if you're not an attorney or a CPA, you have to have at
10 least three years degree experience. That was what got
11 me into law enforcement on graduation from college was
12 to do the three years degree experience.

13 The other road was you were nominated. You go
14 through an extensive background check and all the things
15 that would be for a new agent, and you attend what's
16 called the FBI National Academy. It's essentially the
17 same curriculum as a new agent.

18 I attended the 103rd session of the National
19 Academy, which began in September of '75 and ended the
20 week before Christmas in '75.

21 We had what we call NA people, and then you had
22 new agents' class going through at the same time. So,
23 we got exactly the same type and nature of training
24 other than we missed the section of who to salute and
25 the agency hierarch and the organizational chart.

35

1 At that time, you could make an election to
2 either stay with the Bureau and there would be another
3 two weeks of training, where you would get that who to
4 salute and those type of things, or you could tell them,
5 "Thank you for all the training," and come back home.
6 And I elected to come back home.

7 Q. Okay. So, you had already been employed with law
8 enforcement?

9 A. Yes.

10 Q. You went to the FBI Academy and then just went
11 back to law enforcement, having received some training
12 from the FBI; is that correct?

13 A. Right.

14 Q. So, can you tell me a little bit about your law
15 enforcement experience?

16 A. Sure.

17 Q. And that's either prior to the FBI or after you
18 came back, just kind of encompass that all in one, I
19 guess.

20 A. Upon graduation from college, I was employed by
21 the Victoria Texas Police Department, and this was in
22 June of 1969.

23 You worked starting right at the bottom,
24 regardless of degree. You started at the bottom of rank
25 and position and job functions.

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1 I attended the Victoria Police Academy the fall
2 of 1969 and, upon graduation, then was assigned Patrol
3 Division -- or Operations Division duties, which
4 entailed everything from traffic enforcement, to
5 investigation, to felon.

6 Anything that happened on my 8-hour shift in my
7 particular area of responsibility, geographic area of
8 responsibility, I would get the call and go out and
9 process the complaint.

10 And I served in that role for three and a half
11 years, and then I was promoted to a Sergeant's position,
12 which was more supervisory of people doing what I used
13 to do for the first three and a half years.

14 And a year later, I was promoted to Lieutenant
15 and took over the Regional Police Academy. At the same
16 time, I was also teaching at the Victoria Community
17 College in their criminal justice curriculum.

18 And I did that until I left to go to the FBI
19 National Academy. Like I say, you had to be a
20 nominated, and an agent out of Corpus Christi nominated
21 me, that we had worked together on some bank fraud
22 cases, nominated me to go. And so, that was when I went
23 to the FBI National Academy.

24 I came back. The reason I came back, my son was
25 three years old, my daughter was eight months old, my

<p style="text-align: center;">37</p> <p>1 class' first five-year duty assignment was going to be</p> <p>2 New York City, and I wasn't going to take babies and a</p> <p>3 wife who had never been out of Texas to New York for</p> <p>4 five years.</p> <p>5 Q. Understood.</p> <p>6 A. So, I chose to come back, and I came back to take</p> <p>7 over -- again take over the Coordinator's job or the</p> <p>8 Director's job of the Regional Police Academy, and I was</p> <p>9 doing that until I was chose to run for the House of</p> <p>10 Representatives.</p> <p>11 Q. Okay. So, it was basically patrol work, which</p> <p>12 was -- I guess the subject matter there would be kind of</p> <p>13 general, correct?</p> <p>14 A. Yeah. I mean, my first six months there, also</p> <p>15 because I wasn't from Victoria, Texas, I was a</p> <p>16 natural -- and I was only 21 years old. I was a natural</p> <p>17 for undercover work as well and drug enforcement.</p> <p>18 And so, I had to do what you see on TV they had</p> <p>19 to do, grow the long hair and work in that.</p> <p>20 And then after graduation from the Victoria</p> <p>21 Police Academy, then patrol functions.</p> <p>22 Q. Let me just interjection, you said "natural for</p> <p>23 undercover" -- and I'm still trying to picture the long</p> <p>24 hair.</p> <p>25 A. Yeah.</p>	<p style="text-align: center;">39</p> <p>1 Q. Okay. And so, in this capacity either as a</p> <p>2 Director at a Police Academy or as someone that was</p> <p>3 working as a Patrol Agent, did the topic of voter fraud</p> <p>4 ever come up that you recollect?</p> <p>5 A. No, not back then.</p> <p>6 Q. And in these capacities either as the Police</p> <p>7 Academy Director or as Patrol Officer in Victoria, did</p> <p>8 the topic of illegal immigration come up?</p> <p>9 A. Oh, yes. We -- in fact, I used to be -- prior</p> <p>10 to -- I believe it was the Arizona case where the</p> <p>11 Supreme Court ruled that only the INS, at the time, had</p> <p>12 jurisdiction over illegals, we were expected to arrest</p> <p>13 illegals. In fact, INS, for each illegal, would send me</p> <p>14 my choice of either a box of .357 Magnum shells or .38</p> <p>15 Special shells for every illegal I picked up.</p> <p>16 Q. So, that was something that you were involved in</p> <p>17 as a Patrol Officer?</p> <p>18 A. Yes.</p> <p>19 Q. And then when you moved on to be the Director of</p> <p>20 the Police Academy, did you give instruction on, you</p> <p>21 know, the methods that you used as a Patrol Officer as</p> <p>22 far as what to do when you encounter an illegal</p> <p>23 immigrant or how to take care of that situation?</p> <p>24 A. No, because the law had changed, and we didn't</p> <p>25 have jurisdiction any more.</p>
<p style="text-align: center;">38</p> <p>1 Q. That was because you weren't from the town; is</p> <p>2 that correct?</p> <p>3 A. Nobody knew me in that town.</p> <p>4 Q. No one knew you?</p> <p>5 A. No.</p> <p>6 Q. Okay. And then you moved on to the Sergeant's</p> <p>7 job; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And then went to the FBI?</p> <p>10 A. Lieutenant's job. And that's when I first was</p> <p>11 assigned to the Police Academy.</p> <p>12 Q. Okay.</p> <p>13 A. The local Police Academy, which was a ten-county.</p> <p>14 When I say "regional," we provided mandated training.</p> <p>15 The State requires X number of hours to be a licensed or</p> <p>16 certified peace officer in the State, and our academy</p> <p>17 was -- at the time, we handled the training for ten</p> <p>18 counties.</p> <p>19 Q. And what -- what was your position at the Police</p> <p>20 Academy? I think you mentioned it but --</p> <p>21 A. I was the Director.</p> <p>22 Q. And how long were you the Director of the Police</p> <p>23 Academy?</p> <p>24 A. From 1974 until 1983, with that break of time</p> <p>25 from September to December of '75 when I was gone.</p>	<p style="text-align: center;">40</p> <p>1 Q. So, the law removed jurisdiction over what you</p> <p>2 had previously done as a Patrol Officer?</p> <p>3 A. Right.</p> <p>4 Q. You mentioned that the issue of voter fraud did</p> <p>5 not come up at that time, and that was the time you were</p> <p>6 patrolling and also the time you were Director of the</p> <p>7 Police Academy, you didn't have any classes that you</p> <p>8 gave on voter fraud or any information you gave to your</p> <p>9 students; is that correct?</p> <p>10 A. No -- or that's correct.</p> <p>11 Q. So, at that time, did you serve in any elected</p> <p>12 capacity while in Victoria while you were with the</p> <p>13 police?</p> <p>14 A. In 1978 -- no -- 1979, I was elected to the</p> <p>15 Victoria Independent School District Board of Trustees.</p> <p>16 I was a school board member.</p> <p>17 Q. And how long did you serve on that board?</p> <p>18 A. One term.</p> <p>19 Q. So, that would have been a two-year term?</p> <p>20 A. Three-year term. I was elected to the House of</p> <p>21 Representatives in '82. So, in Texas, under our</p> <p>22 constitution, as soon as you announce for a different</p> <p>23 office, you vacate the current office.</p> <p>24 So, there was an opening for a State</p> <p>25 Representative position. And I was serving at that time</p>

<p style="text-align: center;">41</p> <p>1 as Vice Chair of the School Board, and as soon as I</p> <p>2 announced that I was going to run for that open State</p> <p>3 House seat, my term on the School Board was over.</p> <p>4 Q. And you mentioned elected, so, you were elected</p> <p>5 to the position with the School Board; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Was that a partisan position or nonpartisan?</p> <p>8 A. Nonpartisan.</p> <p>9 Q. Do you remember if you were elected based upon a</p> <p>10 district or was it at large, meaning --</p> <p>11 A. It was at large at the time.</p> <p>12 Q. Has that changed since then?</p> <p>13 A. Yes.</p> <p>14 Q. You mentioned you were the Vice Chair, did you</p> <p>15 hold any other positions on the School Board?</p> <p>16 A. No.</p> <p>17 Q. And in your capacity as the Vice Chair of the</p> <p>18 School Board, with regard to School Board elections</p> <p>19 which you participated in, did the issue of voter fraud</p> <p>20 ever come up at that time?</p> <p>21 A. No, sir.</p> <p>22 Q. And in this capacity as Vice Chair of the School</p> <p>23 Board, did the issue of illegal immigration ever come</p> <p>24 up?</p> <p>25 A. No, sir. Well, only from the standpoint of</p>	<p style="text-align: center;">43</p> <p>1 Q. And was this for the county or the city?</p> <p>2 A. This was the city.</p> <p>3 Q. And when you were elected to the House, you</p> <p>4 served as a representative of Victoria County, so,</p> <p>5 expanded to the whole county as representative?</p> <p>6 A. That's correct.</p> <p>7 Q. And how long did you serve in the Texas House?</p> <p>8 A. Two terms or four years. I served from -- like I</p> <p>9 say, you take office the second Tuesday of January in an</p> <p>10 odd numbered year. So, it was January of 1983, and I</p> <p>11 served in that capacity until I ran for the Senate in</p> <p>12 1986.</p> <p>13 And the Senator before me had moved on to another</p> <p>14 office as well. That opened that seat. So, I ran for</p> <p>15 that seat and won election to the Senate. And I took</p> <p>16 the oath of office in the Senate that January of 1987.</p> <p>17 Q. Okay. And when you were a member of the House --</p> <p>18 and so, just a member of the House and we'll talk about</p> <p>19 the Senate shortly -- did you serve on any committees</p> <p>20 that involved or dealt with election law issues?</p> <p>21 A. No. No.</p> <p>22 Q. Did you sponsor any legislation that you remember</p> <p>23 or amendments that dealt with election law issues?</p> <p>24 A. No.</p> <p>25 Q. And this is a similar question to the questions</p>
<p style="text-align: center;">42</p> <p>1 the -- there was a question by another board member at a</p> <p>2 board meeting, and the superintendent said, "We are</p> <p>3 obligated to provide an education to anybody that comes</p> <p>4 in the door regardless of status." I remember that.</p> <p>5 That was at an open meeting.</p> <p>6 Q. So, there was a question by a board member</p> <p>7 regarding providing education to illegal immigrants, and</p> <p>8 the response was, "We're obligated to do so"?</p> <p>9 A. That's correct.</p> <p>10 Q. And you were just an observer of that</p> <p>11 communication; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. So, you were elected in 1982 to the House. What</p> <p>14 district were you elected from?</p> <p>15 A. It was a district that was comprised of three</p> <p>16 counties. At the time the number was 32, District 32.</p> <p>17 The three counties were Refugio. It's R E F U G I O but</p> <p>18 it's pronounced like it has an R. Refugio, Calhoun and</p> <p>19 Victoria Counties, Victoria being the most populace of</p> <p>20 the three.</p> <p>21 Q. And just for clarification if we can go back,</p> <p>22 when you were mentioning that you served on the</p> <p>23 Victoria, you know, police, was that -- was there a City</p> <p>24 of Victoria and a County of Victoria?</p> <p>25 A. That's correct.</p>	<p style="text-align: center;">44</p> <p>1 I've asked previously but now we're talking about your</p> <p>2 service in the House.</p> <p>3 A. Okay.</p> <p>4 Q. Did the issue of voter fraud come up during your</p> <p>5 service in the House?</p> <p>6 A. I can't remember. That was 1983.</p> <p>7 Q. And the issue of illegal immigration, was that an</p> <p>8 issue that was dealt with during your time in the Texas</p> <p>9 House?</p> <p>10 A. No.</p> <p>11 Q. So, you mentioned you were elected to the Senate</p> <p>12 in 1986?</p> <p>13 A. Elected in '86, took the office in '87.</p> <p>14 Q. And from what district?</p> <p>15 A. The Senate District would be 18.</p> <p>16 Q. And did that share the geographic area of</p> <p>17 District -- you said 32 or was that different?</p> <p>18 A. It was -- it encompassed District 32 but it went</p> <p>19 from three counties in the House District to, at that</p> <p>20 time under that particular -- before the '91</p> <p>21 redistricting, there were 18 other counties -- or 18</p> <p>22 counties total.</p> <p>23 Q. About how many folks did you represent?</p> <p>24 A. About 500,000.</p> <p>25 Q. Am I correct that the Texas Senate districts are</p>

<p style="text-align: center;">45</p> <p>1 drawn so that they are roughly equal in population; is</p> <p>2 that correct?</p> <p>3 A. Yes. Yes. You take the Decennial census, take</p> <p>4 31 -- there's only 31 State Senators -- 31 divided into</p> <p>5 whatever the official census number is, and that's</p> <p>6 theoretically how many people each Senator represents.</p> <p>7 Q. And your district, obviously -- let me ask you</p> <p>8 first -- strike that.</p> <p>9 How long did you serve in the Senate?</p> <p>10 A. 20 years.</p> <p>11 Q. And that would be from 1987 --</p> <p>12 A. 1987 to 2007.</p> <p>13 Q. And so, your district did change, I'm guessing,</p> <p>14 at least two times?</p> <p>15 A. Yes.</p> <p>16 Q. Did you serve on any committees that involved or</p> <p>17 dealt with election law during your time in the Texas</p> <p>18 Senate?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What committees did you serve on that</p> <p>21 dealt with election law during your time in the Texas</p> <p>22 Senate?</p> <p>23 A. State Affairs.</p> <p>24 Q. Did you serve on any other committees?</p> <p>25 A. Yes. I served on several. Like I say, with just</p>	<p style="text-align: center;">47</p> <p>1 A. When I chaired it, it did.</p> <p>2 Q. And has that changed since you chaired it?</p> <p>3 A. I believe it has.</p> <p>4 Q. And what's the current situation?</p> <p>5 A. I think they have a separate committee that</p> <p>6 handles elections.</p> <p>7 Q. And do you know the title of that committee?</p> <p>8 A. I do not.</p> <p>9 Q. And we're going to jump ahead just a little bit</p> <p>10 but just because I think the subject matter is somewhat</p> <p>11 similar.</p> <p>12 Have you been appointed to any kind of task</p> <p>13 forces since you've left the Senate to serve with the</p> <p>14 Governor, as a member of a task force?</p> <p>15 A. No.</p> <p>16 Q. And so, you haven't served on the Task Force For</p> <p>17 Homeland Security?</p> <p>18 A. I did but I was still in the Senate.</p> <p>19 Q. Okay.</p> <p>20 A. This was right after 911, and Governor Perry,</p> <p>21 like then President Bush, it was his first year when, of</p> <p>22 course, 911 occurred.</p> <p>23 And Governor Perry at the time nominated me to be</p> <p>24 on this -- our Homeland Security Task Force, chaired by</p> <p>25 at that time Land Commissioner David Dewhurst,</p>
<p style="text-align: center;">46</p> <p>1 31 members, you have to essentially do the same volume</p> <p>2 of work as 150 House members. So, we all -- in the</p> <p>3 Senate, you serve on quite a few committees.</p> <p>4 Q. And do you remember some of those?</p> <p>5 A. Sure. I served on every committee in the</p> <p>6 Senate -- when I went over there, there were only nine</p> <p>7 standing committees. Now, there are more than that, and</p> <p>8 the Senate decides through their rules how many</p> <p>9 committees that you have but at the time -- but</p> <p>10 virtually every committee I served on or chaired other</p> <p>11 than the Jurisprudence Committee because of not being an</p> <p>12 attorney. I believe that was the only one that I did</p> <p>13 not either serve on or chair.</p> <p>14 Q. And did you have leadership positions in these</p> <p>15 committees?</p> <p>16 A. Yes.</p> <p>17 Q. And what were those?</p> <p>18 A. I chaired the Intergovernmental Relations</p> <p>19 Committee during one period of time. I was the Chair of</p> <p>20 the State Affairs Committee for a period of time. I was</p> <p>21 the Chair of the Criminal Justice Committee for a period</p> <p>22 of time. And then my last chairmanship was Natural</p> <p>23 Resources, water, air, those noncontroversial issues.</p> <p>24 Q. And does the State Affairs Committee have</p> <p>25 oversight over elections law issues?</p>	<p style="text-align: center;">48</p> <p>1 subsequently then Lieutenant Governor David Dewhurst.</p> <p>2 Q. Okay.</p> <p>3 A. And with members of the general public, as well</p> <p>4 as elected members on that committee.</p> <p>5 Q. So, in addition to your job as a Texas State</p> <p>6 Senator and in addition to your service on, as we've</p> <p>7 talked about, multiple, multiple committees, you served</p> <p>8 on the Governor's Task Force on Homeland Security as an</p> <p>9 elected Senator?</p> <p>10 A. Yes.</p> <p>11 Q. Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And did you serve on any other task force</p> <p>14 projects, I guess, while you were an elected Senator?</p> <p>15 A. Define "task force." I'm not trying to be</p> <p>16 evasive. Here's the deal: As you know, the Legislature</p> <p>17 means 140 days every odd numbered year. So, that</p> <p>18 18-month period between sessions, your committee is</p> <p>19 still in place, and we're tasked with interim charges,</p> <p>20 we refer to them, where we'll look at bills either that</p> <p>21 have passed or that were introduced that were of such</p> <p>22 nature that it -- we didn't want to take them up in</p> <p>23 140 -- there's too much here, it represented too much of</p> <p>24 a change.</p> <p>25 Chairing the Natural Resources Committee and the</p>

<p style="text-align: center;">49</p> <p>1 water issues, air quality issues, those type things</p> <p>2 required a lot of time during that interim, not really a</p> <p>3 task force but we were meeting in various locales around</p> <p>4 the state on those particular subject matters.</p> <p>5 Q. So, there could be, between sessions, certain</p> <p>6 subject matters that you're assigned to handle?</p> <p>7 A. That's correct.</p> <p>8 Q. And they might not have the formal term of task</p> <p>9 force but it is other subject matter that you're</p> <p>10 addressing, correct?</p> <p>11 A. Yes.</p> <p>12 Q. So, given your experience -- we've talked about</p> <p>13 with the Task Force on Homeland Security, we've talked</p> <p>14 about your work as the Chair of the State Affairs</p> <p>15 Committee, as well as your law enforcement experience,</p> <p>16 are you aware of the types of documents in Texas that</p> <p>17 establish citizenship?</p> <p>18 A. Not specifically.</p> <p>19 Q. Do you know whether you have to be a citizen to</p> <p>20 get a driver's license in Texas?</p> <p>21 A. I don't know. I think you do but I don't know.</p> <p>22 Q. And do you know whether you have to be a citizen</p> <p>23 to get a license to carry a concealed handgun in Texas?</p> <p>24 A. You do, a Texas resident.</p> <p>25 Q. Could you be a Texas resident without being a</p>	<p style="text-align: center;">51</p> <p>1 A. From time to time.</p> <p>2 Q. And do you remember in what context that issue</p> <p>3 came up?</p> <p>4 MR. BRISSENDEN: I'm going to instruct you</p> <p>5 that to the extent you have knowledge or information</p> <p>6 that requires you -- to the extent this question</p> <p>7 requires you to disclose information, analysis, work</p> <p>8 that you did with regard to specific pieces of</p> <p>9 legislation, I'd instruct you not to answer that</p> <p>10 question.</p> <p>11 To the extent you can answer that question</p> <p>12 based upon information that's in the public record, you</p> <p>13 may answer.</p> <p>14 THE WITNESS: Okay.</p> <p>15 Q. (BY MR. FISHER) Did you have anything publicly</p> <p>16 that you're aware of that came up with regard to voter</p> <p>17 fraud during your time as a Texas State Senator?</p> <p>18 A. Not publicly.</p> <p>19 Q. So, with regard to any information regarding when</p> <p>20 voter fraud came up, you would be asserting legislative</p> <p>21 privilege over that information on the advice of</p> <p>22 counsel; is that correct?</p> <p>23 A. That's correct.</p> <p>24 Q. And similar question, generally, did the issue of</p> <p>25 illegal immigration come up during your time as the</p>
<p style="text-align: center;">50</p> <p>1 citizen of the United States?</p> <p>2 A. Sure.</p> <p>3 Q. So --</p> <p>4 A. Not for concealed handgun, though.</p> <p>5 Q. So, for concealed handgun, by Texas resident, you</p> <p>6 mean someone who is a citizen of the United States,</p> <p>7 correct?</p> <p>8 A. That's correct. I don't have one, by the way. I</p> <p>9 don't have a concealed --</p> <p>10 Q. Handgun or -- let me clarify.</p> <p>11 A. I don't have a license.</p> <p>12 Q. So, that means you don't have the handgun, fair</p> <p>13 enough?</p> <p>14 A. That doesn't mean that. It doesn't mean that.</p> <p>15 You know, you carry one for 14 years every day, the</p> <p>16 novelty is not there.</p> <p>17 Q. Understood, Senator. Understood.</p> <p>18 So, during your time as a Senator, did you</p> <p>19 sponsor or author any legislation or amendments that</p> <p>20 involved elections that you are aware of that you</p> <p>21 remember?</p> <p>22 A. No.</p> <p>23 Q. And similar question to what I've asked: During</p> <p>24 your time as a Senator, did the issue of voter fraud</p> <p>25 come up generally?</p>	<p style="text-align: center;">52</p> <p>1 Texas State Senator?</p> <p>2 MR. BRISSENDEN: My instruction to you would</p> <p>3 be the same.</p> <p>4 Q. (BY MR. FISHER) Just for the record, we have to</p> <p>5 make it clear.</p> <p>6 A. Okay.</p> <p>7 Q. So, did the issue of illegal immigration come up</p> <p>8 with regard to public information during your time as a</p> <p>9 Texas State Senator?</p> <p>10 A. It came up.</p> <p>11 Q. Okay. But with regard to actual substance, are</p> <p>12 you asserting legislative privilege over that</p> <p>13 information based on the advice of counsel?</p> <p>14 A. I am.</p> <p>15 Q. So, we talked about your law enforcement</p> <p>16 experience, we talked about your time in the House, in</p> <p>17 the Senate. Your current position, if you can just tell</p> <p>18 me about that and how you came to be employed by the</p> <p>19 Governor.</p> <p>20 A. When I chose not to seek reelection for another</p> <p>21 term, the Governor called me and asked would I be</p> <p>22 interested in coming and filling this position with his</p> <p>23 staff, and I told him that I would.</p> <p>24 Q. And who had the position prior to you having it?</p> <p>25 A. I believe it was Dan Shelley, another former</p>

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1 member of the Senate.

2 Q. And if we could just make clear, your actual
3 title is Legislative Affairs Director; is that correct?

4 A. Legislative Director.

5 Q. Legislative Director?

6 A. Right.

7 Q. And do you know how you were selected for the
8 position?

9 A. I was the best for the -- no. Like I say, he
10 called me. And once I made the announcement that I
11 would not be seeking reelection, it was the very next
12 day I received a phone call from the Governor.

13 Q. So, is it fair to say you weren't seeking the
14 position?

15 A. No.

16 Q. And you received a phone call asking if you were
17 interested in it?

18 A. That's correct.

19 Q. And did you know Governor Perry prior to that?

20 A. Yes.

21 Q. Had you interacted with him?

22 A. Yes.

23 Q. Obviously, we talked about your service on the
24 Task Force. Was it with things like the Task Force and
25 other things between legislative sessions and during

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1 legislative sessions that you had an opportunity to
2 interact with the Governor?

3 A. Yes.

4 Q. And in your experience and your knowledge -- and
5 let me clarify. Let me make it clear for the record.

6 During your time as a member of the Texas House
7 and a member of the Texas State Senate, you were elected
8 as a Democrat; is that correct?

9 A. That's correct.

10 Q. And so, in your experience, has a Democrat served
11 in the Legislative Director role for a Republican
12 Governor that you know of?

13 A. There could have been one, Hilary Doran under
14 Governor Clements.

15 Q. And so, the reverse also, do you know of any
16 Republicans that have served for a Democratic Governor
17 of Texas?

18 A. I'm trying to think of the five Governors I've
19 worked with. No.

20 Q. And so, the next question -- and this is, I know,
21 a general question but it is very important for us to
22 get this figured out now as we move forward so I don't
23 ask you questions that you don't know the answer to, or
24 I try not to anyway.

25 A. Okay.

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1 Q. So that we're clear on the questions I'm asking
2 you -- and this goes all the way back to when we started
3 and talked about, you know, if I'm asking you questions
4 about what you do, what your staff does or what folks in
5 the Governor's Office do or what the Governor does, it's
6 helpful for me to know what your job duties as the
7 Legislative Director are. So, if you can let me know
8 what those are and be specific, and then we'll try to
9 get that even more figured out so that I know kind of
10 what your role is in the Governor's Office.

11 A. Okay. It's -- I guess you could categorize it
12 under several different elements. I'll use that term.
13 If it's -- when he can't be somewhere --

14 Q. And by "he," you mean the Governor, correct?

15 A. When the Governor can't be somewhere in the House
16 or the Senate, I'm the face that they see. If it's --
17 if it's legislation related, I work with our policy
18 staff, and if they have a problem getting into an
19 office, then I usually can go through the -- break
20 through the speed bump.

21 Q. Okay. Let me stop you there real quickly just
22 because I don't want to have to go back and then we'll
23 all get confused about what I'm asking.

24 First of all -- and this is just a question for
25 clarification -- do you believe you had some kind of

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1 area of expertise that made you particularly qualified
2 so that the Governor called you and offered you the
3 position or was it based on your lengthy term in the
4 Senate or --

5 MR. BRISSENDEN: Objection. Speculation.
6 And to the extent that that information -- or that
7 question requires you to divulge information as part of
8 the deliberative process in which the Governor selected
9 you, to the extent you have any information based upon
10 communications you had from individuals within your
11 office, I instruct you not to disclose that information.

12 THE WITNESS: Okay.

13 Q. (BY MR. FISHER) Okay. So, you're not going to
14 answer based on the deliberative process privilege on
15 the advice of your counsel; is that correct?

16 A. That's correct.

17 Q. So, let me rephrase.

18 When the Governor called you -- and this is aside
19 from any communications that might have taken place --
20 what was your thought about why you were being called?
21 The length of time in the Senate, was that it, or
22 something else, some kind of particular area of
23 expertise you had developed, perhaps your law
24 enforcement experience or something else that you
25 thought made you an attractive candidate?

<p style="text-align: center;">57</p> <p>1 A. Not being in an elected office any more, I was</p> <p>2 the best one for the job.</p> <p>3 Q. Do you have any --</p> <p>4 A. The reason I said not being in politics, we like</p> <p>5 to say me, me, me, but I was it.</p> <p>6 Q. So, you feel you were the most qualified person</p> <p>7 for the job; is that correct?</p> <p>8 A. That's correct.</p> <p>9 Q. So, we were talking about -- and I had a couple</p> <p>10 of questions that I wanted to ask before we moved on</p> <p>11 with your duties because you mentioned a couple of</p> <p>12 things I wanted to ask about.</p> <p>13 The first thing you said is when the Governor</p> <p>14 can't be the face that members of the House and Senate</p> <p>15 see, what do you mean by being the face that House and</p> <p>16 Senate members see?</p> <p>17 A. A House member or Senate member sometimes says,</p> <p>18 "I've got to talk to the Governor. I've got to talk to</p> <p>19 him," they will call me first.</p> <p>20 Q. Okay. So, if the Governor is not available, as</p> <p>21 you mentioned earlier, you are the person --</p> <p>22 A. Right.</p> <p>23 Q. -- who will take a call from a House member or</p> <p>24 Senate member or meet in person as well, I guess; is</p> <p>25 that correct?</p>	<p style="text-align: center;">59</p> <p>1 communications and not to disclose those.</p> <p>2 A. Okay. Generally, the requests range from trying</p> <p>3 to get a constituent appointed to a board or commission.</p> <p>4 At times over the five years I've been there, when a</p> <p>5 member has decided that he or she has had all this fun</p> <p>6 they want, and before they announce to the public, they</p> <p>7 want to tell the Governor first. More of a protocol</p> <p>8 type thing, "Hey, I want to tell you, Governor, I'm not</p> <p>9 running any more and before I" -- those type things.</p> <p>10 So, when I say it runs the gamut of things that</p> <p>11 they want to talk about, very seldom does it ever broach</p> <p>12 on issues specific.</p> <p>13 Q. (BY MR. FISHER) In this role, do you see</p> <p>14 yourself as -- since you're the face for the Governor in</p> <p>15 this role, do you see yourself as a gatekeeper? Do you</p> <p>16 determine whether certain things you can deal with and</p> <p>17 pass information to the Governor or certain things maybe</p> <p>18 that person does need to go see the Governor face to</p> <p>19 face? For instance, if someone is leaving, do you want</p> <p>20 them to actually see the Governor and are there other</p> <p>21 instances where you just kind of pass information along?</p> <p>22 MR. BRISSENDEN: My instruction to you would</p> <p>23 be the same.</p> <p>24 THE WITNESS: Okay. Generally?</p> <p>25 MR. BRISSENDEN: Yes, generally.</p>
<p style="text-align: center;">58</p> <p>1 A. That's correct.</p> <p>2 Q. And when someone has to talk to the Governor, are</p> <p>3 those discussions about -- I'm not asking the substance</p> <p>4 but are those communications about legislation, things</p> <p>5 that are pending?</p> <p>6 A. The whole gamut. It runs the gamut of what</p> <p>7 members want to talk to him about.</p> <p>8 Q. So, it could be legislation that's pending,</p> <p>9 legislation that's up for consideration; is that</p> <p>10 correct?</p> <p>11 A. Could be.</p> <p>12 Q. And it could be any other number of issues that a</p> <p>13 State Legislator would need to talk to the Governor</p> <p>14 about; is that right?</p> <p>15 A. That's correct.</p> <p>16 Q. And can you identify some other areas where a</p> <p>17 State Legislator would want to talk to the Governor or</p> <p>18 need to talk to the Governor?</p> <p>19 MR. BRISSENDEN: I'm going to instruct you</p> <p>20 that to the extent you can answer that question</p> <p>21 generally, at a general level, you may do so.</p> <p>22 To the extent that question requires you to</p> <p>23 rely upon specific communications that you have had with</p> <p>24 Legislators, communications that those Legislators have</p> <p>25 had with you, I instruct you that those are privileged</p>	<p style="text-align: center;">60</p> <p>1 A. Generally, there is some gatekeeping role.</p> <p>2 What was the other part of it?</p> <p>3 Q. (BY MR. FISHER) Just do you see yourself as</p> <p>4 someone who has to make a determination about what</p> <p>5 information or if -- you know, if a Legislator comes to</p> <p>6 you with certain information, do you make a</p> <p>7 determination I can tell the Governor that information</p> <p>8 and that's fine or do I need to put that person face to</p> <p>9 face with the Governor on this topic?</p> <p>10 MR. BRISSENDEN: Objection. Vague.</p> <p>11 And my instruction to you would be the same.</p> <p>12 A. Generally, at times, that has occurred.</p> <p>13 Q. (BY MR. FISHER) Okay. And so, you also</p> <p>14 mentioned -- and I guess this would be more of a gate</p> <p>15 opener role -- policy staff getting into an office, and</p> <p>16 that would be, I guess, the reverse. So, these are</p> <p>17 folks from the Governor's Office trying to talk to</p> <p>18 specific Legislators; is that correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And so, there are times generally where --</p> <p>21 A. Or staff.</p> <p>22 Q. And so, there are -- it's fair to say there are</p> <p>23 times where folks from your office need to meet with</p> <p>24 folks from either staff or Legislators, Texas</p> <p>25 Legislators, and you help facilitate those meetings or</p>

<p style="text-align: center;">61</p> <p>1 conversations; is that correct?</p> <p>2 A. That's correct, if they can't get in.</p> <p>3 Q. What would be a reason why someone couldn't get</p> <p>4 into an office?</p> <p>5 MR. BRISSENDEN: My instruction to you would</p> <p>6 be the same. Again, we're talking in general terms.</p> <p>7 THE WITNESS: Okay.</p> <p>8 MR. BRISSENDEN: And to the extent you can</p> <p>9 answer that question based upon general procedure and</p> <p>10 general knowledge, you may answer.</p> <p>11 To the extent that that question requires</p> <p>12 you to rely upon specific instances and specific</p> <p>13 examples in dealing with specific Legislators, I would</p> <p>14 instruct you not to answer.</p> <p>15 THE WITNESS: Okay.</p> <p>16 A. Generally, when the availability -- we'll call it</p> <p>17 that -- occurs, it's during a legislative session while</p> <p>18 either the House or the Senate are actually in session.</p> <p>19 Analysts don't have floor privileges, and if it's</p> <p>20 something through the process, they have to get --</p> <p>21 either the member has requested some information or</p> <p>22 there's something about -- an amendment placed on there</p> <p>23 and they have to tell that member, "We don't like that,"</p> <p>24 or, "We do like that," they don't have access to the</p> <p>25 floor. I do.</p>	<p style="text-align: center;">63</p> <p>1 I guess?</p> <p>2 A. Right.</p> <p>3 Q. As Legislative Director and as a former</p> <p>4 longstanding member of the Legislature as well?</p> <p>5 A. Right. But I have to have an ID card and go</p> <p>6 through the House procedure and the Senate procedure.</p> <p>7 Q. So, it is very formalized --</p> <p>8 A. Yes.</p> <p>9 Q. -- as far as who is allowed to go in that</p> <p>10 building?</p> <p>11 A. No, the floor while they are in session. Anybody</p> <p>12 can go in the building.</p> <p>13 Q. Are you, in your capacity as Legislative</p> <p>14 Director, involved in drafting legislation?</p> <p>15 A. Define "drafting." Do I actually write it?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. Do you suggest changes for legislation based upon</p> <p>19 the Governor's priorities?</p> <p>20 A. I can.</p> <p>21 Q. Have you done that in the past five years, the</p> <p>22 time that you've served as Legislative Director?</p> <p>23 A. I've helped formulate policy.</p> <p>24 Q. Have you helped formulate legislation?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">62</p> <p>1 So, I can go and pull the member off and say,</p> <p>2 "Hey, this thing that you just agreed to is" -- so,</p> <p>3 generally, that's what I'm talking about.</p> <p>4 I don't ever recall in my five years that an</p> <p>5 analyst was barred from at least talking to staff. That</p> <p>6 has not occurred.</p> <p>7 Q. (BY MR. FISHER) Okay. And when you mentioned</p> <p>8 access to the floor, is this some kind of formalized</p> <p>9 access or is this just based on your position as a</p> <p>10 long-standing member of the Legislature?</p> <p>11 A. It's formalized. If I'm not in this position and</p> <p>12 I'm not a registered lobbyist, then as a former member,</p> <p>13 I would have access since I served in both Houses but --</p> <p>14 because if you are a, quote, lobbyist, registered</p> <p>15 lobbyist or you don't have experience, then it's a</p> <p>16 formal process by which you are granted access to the</p> <p>17 floor while they are in session.</p> <p>18 Q. So, there's really a few ways to get access to</p> <p>19 the floor. One is someone in your position as a</p> <p>20 Legislative Director. Two is a lobbyist?</p> <p>21 A. Lobbyists are not.</p> <p>22 Q. Lobbyists are not?</p> <p>23 A. No.</p> <p>24 Q. Three would be former House and Senate members.</p> <p>25 So, really, you're allowed under two of those positions,</p>	<p style="text-align: center;">64</p> <p>1 Q. And are you involved in analyzing existing</p> <p>2 legislation and bills?</p> <p>3 A. To a certain extent, yes.</p> <p>4 Q. And so, if you're involved in analyzing an</p> <p>5 existing bill or piece of legislation, how does your</p> <p>6 role in potentially being involved in, you know -- as we</p> <p>7 mentioned earlier just a few seconds ago, drafting or</p> <p>8 redrafting legislation, how does that come into play?</p> <p>9 So, if we have an existing bill, where does your role</p> <p>10 come in as far as someone who might make changes or, as</p> <p>11 you mentioned, suggest changes to existing policy or</p> <p>12 bills?</p> <p>13 MR. BRISSENDEN: Again, we're talking just</p> <p>14 general terms.</p> <p>15 A. Generally, any bill that gets filed, bill or</p> <p>16 resolution, the Governor's role in the legislative</p> <p>17 process comes at the end of the process. In other</p> <p>18 words, we can either sign it, we can veto it or, under</p> <p>19 Texas law, a bill that reaches us before the 130th day</p> <p>20 of the legislative session, we can do nothing and it</p> <p>21 becomes a law without the Governor's signature. That's</p> <p>22 in the constitution. If it comes to us from the 130th</p> <p>23 day to the 140th day, then we have 20 days to analyze</p> <p>24 it.</p> <p>25 So, because every bill -- I don't have the luxury</p>

<p style="text-align: center;">65</p> <p>1 of not assuming that they may end up on our desk, we --</p> <p>2 that's why we have analysts in each subject area, if you</p> <p>3 will, that reviews those bills, and we have -- during a</p> <p>4 session, we have frequent meetings on -- for a group of</p> <p>5 people to review.</p> <p>6 Q. (BY MR. FISHER) You mentioned policy analysts</p> <p>7 who are assigned certain subject matters, and would one</p> <p>8 of those policy analysts be someone we mentioned</p> <p>9 earlier, Mr. Schofield? Was he in that position?</p> <p>10 A. He would have been.</p> <p>11 Q. And would you be someone who would read the bill</p> <p>12 analyses prepared by Mr. Schofield?</p> <p>13 A. At times, yeah, generally, at times.</p> <p>14 Q. Do you know who else would read those analyses</p> <p>15 that are prepared by him?</p> <p>16 A. I would guess his direct supervisory person.</p> <p>17 Q. And what role do those analyses play in making a</p> <p>18 determination -- well, strike that.</p> <p>19 When are the analyses prepared?</p> <p>20 A. When a bill gets filed, we assign them to an</p> <p>21 analyst, and we ask them to do their analysis within</p> <p>22 three days.</p> <p>23 Q. So, prior to the bill being filed, do you or</p> <p>24 members of your staff have any information about the</p> <p>25 bill or is it all after the bill is filed and the</p>	<p style="text-align: center;">67</p> <p>1 A. I was just clearing my throat.</p> <p>2 Q. Are these -- do these bill analysts play a role</p> <p>3 in determining whether the Governor will support a bill</p> <p>4 or not?</p> <p>5 A. No.</p> <p>6 MR. BRISSENDEN: I'm going to -- yeah, to</p> <p>7 the extent that question requires you to disclose</p> <p>8 information, thoughts, opinions, mental impressions</p> <p>9 about legislation, I instruct you not to answer.</p> <p>10 To the extent you can, as a matter of</p> <p>11 general procedure, answer that question, you may.</p> <p>12 A. Generally, no.</p> <p>13 Q. (BY MR. FISHER) And how does the Governor</p> <p>14 determine whether to support a bill or not if not based</p> <p>15 upon an analysis conducted by someone like</p> <p>16 Mr. Schofield?</p> <p>17 MR. BRISSENDEN: Objection to the extent it</p> <p>18 calls for speculation but it also requires the witness</p> <p>19 to divulge information in regards to deliberation, the</p> <p>20 deliberation process, as well as what the Court has</p> <p>21 determined to be legislative acts and is part of the</p> <p>22 legislative privilege. And so, under both privileges, I</p> <p>23 instruct the witness not to answer.</p> <p>24 THE WITNESS: Okay.</p> <p>25 Q. (BY MR. FISHER) And you're not going to answer</p>
<p style="text-align: center;">66</p> <p>1 analysis is conducted?</p> <p>2 A. All after.</p> <p>3 Q. Okay. So, a bill is filed and --</p> <p>4 A. I mean, from time to time, if somebody before the</p> <p>5 session starts or before they file a bill says, "I'm</p> <p>6 thinking about filing a bill doing this, do you think</p> <p>7 the Governor would support that," general terms, and</p> <p>8 without seeing the bill I'd say, "We have to see the</p> <p>9 bill."</p> <p>10 Q. So, is it fair to say there might be what could</p> <p>11 be called a 10,000-foot discussion that gets narrowed</p> <p>12 down after the actual language of a bill is filed; is</p> <p>13 that correct?</p> <p>14 A. That's correct.</p> <p>15 Q. And so, after a bill is actually filed, a bill</p> <p>16 analysis is done by someone like Mr. Schofield; is that</p> <p>17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. And the folks that review that might be yourself;</p> <p>20 is that correct?</p> <p>21 A. At some point in the process, I would.</p> <p>22 Q. And another person that might look at that might</p> <p>23 be his director or supervisor; is that correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And are these -- I'm sorry.</p>	<p style="text-align: center;">68</p> <p>1 that question based on the advice of counsel, correct?</p> <p>2 A. That's correct.</p> <p>3 Q. Would you ever read -- you said -- you mentioned</p> <p>4 you would read bill analyses prepared by policy</p> <p>5 analysts, correct?</p> <p>6 A. At times.</p> <p>7 Q. And would you ever go back and look at the</p> <p>8 underlying documents that a policy analyst relied on?</p> <p>9 So, if Mr. Schofield provides you with a bill analysis,</p> <p>10 would you look at what he looked at to come up with that</p> <p>11 analysis?</p> <p>12 A. No.</p> <p>13 Q. So, a bill has been filed. We have a policy</p> <p>14 analysis that's done in your office by someone like</p> <p>15 Mr. Schofield. That's reviewed by folks in your office,</p> <p>16 correct?</p> <p>17 A. There is one person that makes a review, did he</p> <p>18 fill in all the blanks.</p> <p>19 Q. Okay.</p> <p>20 A. But she doesn't -- it's more -- and I don't use</p> <p>21 it in a demeaning term. It's more secretarial, did you</p> <p>22 turn a document with all the blanks filled in or not.</p> <p>23 She makes no analysis of the quality or what's in there.</p> <p>24 Q. And by "she," you're referring to?</p> <p>25 A. Julie Kopycinski.</p>

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1 Q. Fair enough. So, it's fair to say, based upon
2 what you just said, that you wouldn't, in your capacity,
3 or a member of your staff, tell a policy analyst what to
4 look at before doing their bill analysis?

5 A. No, not at that point.

6 Q. So, you mentioned that the Governor's role comes
7 later in the process --

8 A. Right.

9 Q. -- a few minutes ago?

10 A. His official role.

11 Q. Okay.

12 A. Sign, veto or --

13 Q. So, his official role, whether to sign or veto a
14 bill, comes later in the process. Does he have an
15 unofficial role prior to that determination?

16 MR. BRISSENDEN: Instruct you that to the
17 extent that question requires you to disclose thoughts,
18 opinions, mental impressions, analysis about
19 legislation, specific pieces of legislation,
20 communications that you've had with staff members in
21 your office, I'd instruct you not to answer that
22 question.

23 THE WITNESS: Okay.

24 Q. (BY MR. FISHER) So, just to be clear for the
25 sake of the record, you are not answering that question

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1 on the advice of counsel?

2 A. That's correct.

3 Q. In your role as Legislative Director, do you talk
4 to members of the Legislature about the Governor's
5 priorities during a session?

6 A. Yes.

7 Q. And do you discuss certain bills, specific bills?

8 A. I have to -- in Texas, a Governor is not allowed
9 to file a bill in and of his own signature. So, I have
10 to get a bill sponsor in the House and a bill sponsor in
11 the Senate.

12 Q. So, there might be times where you're seeking to
13 have a bill sponsored in the House or the Senate on
14 behalf of the Governor?

15 A. Yes.

16 Q. And where would that -- where would a bill like
17 that come from --

18 MR. BRISSENDEN: To the extent that you --

19 Q. (BY MR. FISHER) -- just generally?

20 MR. BRISSENDEN: To the extent you can
21 answer that question as a matter of general procedure,
22 you may do so.

23 To the extent that question requires you to
24 disclose communications that you've had with the
25 Governor or other members of the Governor's staff, I

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1 instruct you not to disclose those.

2 Also, to the extent that that requires you
3 to disclose your thoughts, opinions, mental impressions
4 or analysis about legislation, I'd instruct you -- and
5 including deliberations, I would instruct you not to
6 answer.

7 A. Okay. In general, you have an initiative. The
8 House and the Senate have their own rules that all of
9 those bills -- or those that result in the filing of a
10 bill must be drafted by legislative counsel.

11 I could take them something that these attorneys
12 here have written up, it wouldn't be good enough for the
13 House and the Senate. They have to have their own
14 attorneys draft up a bill.

15 So, when I talk to a member about an initiative,
16 in general, then they take that general initiative and
17 they go and talk to their attorneys at Legislative
18 Council.

19 They then draft up a bill and file the bill, and
20 at that time then, we will review it to see if it
21 matches what we had in mind.

22 Q. (BY MR. FISHER) So, there might be things that
23 you term initiatives that are priorities of the Governor
24 that would engender a bill being filed eventually in the
25 House or the Senate?

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1 A. That's correct.

2 Q. So, we talked a little bit about your legislative
3 duties. We talked about -- and I termed it a gatekeeper
4 and a gate opener role. I think that was a fair
5 characterization; is that correct?

6 A. Sure.

7 Q. Do you have any nonlegislative related duties in
8 the Governor's Office, so, things that aren't related to
9 dealing with the Legislature?

10 A. Sure. The Governor will get invitations to speak
11 probably 10 times a day in 20 different events. He
12 can't be at all of them. So, a lot of those, they get
13 me rather than him.

14 Yesterday -- there's a -- I think it's a
15 nationwide initiative. Chambers of Commerce have this
16 program called -- yesterday was Mid Valley Leadership
17 where they bring in young professionals in their
18 community and they learn about city government, county
19 government, state government and they even travel to
20 Washington to learn about federal government.

21 When they come to the State, as yesterday a group
22 did, I was the one -- they wanted the Governor. He
23 couldn't be here. Unfortunately, a house member died,
24 and his funeral was there that he had to attend.

25 I did that. It's nonlegislative in the pure

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1 sense but it's one of the functions that I do is fill in
2 on speeches and those type things.

3 Q. So, you fill in for the Governor when he can't be
4 somewhere, and sometimes folks are a little disappointed
5 they didn't get Governor Perry; is that correct?

6 A. Sure.

7 Q. I wanted to clear up one thing. I just have one
8 more question on kind of what goes on when a bill is
9 filed by a Legislator.

10 A. Okay.

11 Q. We talked about a bill is filed. You all become
12 aware of it. There is kind of a secretarial procedure
13 where a policy analysis is done?

14 A. Right, not in my shop but they -- any bill that's
15 filed -- and in the legislative session, there will be
16 anywhere from 6,500 to 7,000 proposed law changes. Yes,
17 that's always amazed me.

18 But we get a notice that that's been filed. I
19 review this, and I say, "Okay. This needs to go to
20 Reynolds. This one needs to go to David. This one
21 needs to go here," and we'll assign it to an analyst who
22 works in another building under another director.

23 Q. Okay. And that's a lot of bills, 6,500 to 7,000,
24 correct?

25 A. (Witness indicated by nodding his head

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1 affirmatively.)

2 Q. So, those are all assigned out. Do they all come
3 back to you or do only some come back to you that are of
4 certain interest or is it just -- you don't get -- do
5 you get 7,000 bills back to take a look at?

6 A. No. No. The only time that we get bills back
7 is -- as we like to say, if the system works, the
8 majority of those never pass.

9 If we see movement or nonmovement over an
10 initiative that we support is the only time that they
11 will come back to me.

12 By movement, I'm talking about it's been filed,
13 oh, they've granted a hearing, oh, it's out of
14 committee, oh, it's passed the Senate or the House,
15 whatever.

16 Q. And if a bill has just merely been filed and a
17 policy analysis has been done, what is the step that's
18 taken to determine whether it has the Governor's support
19 or not?

20 MR. BRISSENDEN: I'm going to instruct you
21 to the extent you can answer that question without
22 disclosing information or rely upon specific instances
23 of legislation that have been deliberated or where
24 recommendations have been made or opinions have been
25 formulated, to the extent you can do so without relying

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1 upon that information, you may answer the question as a
2 matter of general procedure.

3 To the extent that you have to rely upon
4 specific instances dealing with legislation, then I
5 instruct you not to answer.

6 A. Okay. On the advice of my attorney, I won't
7 answer.

8 Q. (BY MR. FISHER) Let me take another try.

9 A. Okay.

10 Q. It's just as a general matter, you know, a bill
11 has been filed, a policy analysis has been done, it
12 could be one of these 7,000 bills, and that's a lot of
13 bills, does the Governor weigh in on 7,000 bills?

14 A. No. No.

15 Q. Do you know, for instance, the general priorities
16 of the Governor with regard to legislation?

17 A. Generally.

18 Q. And do those general priorities factor into
19 whether you pay attention to a bill or not, one of those
20 7,000 bills? Do those priorities of the Governor
21 determine whether you are tracking that bill or not?

22 MR. BRISSENDEN: My instruction to you would
23 be the same as just previously.

24 THE WITNESS: Right.

25 Q. (BY MR. FISHER) And you're not going to answer

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1 that on the advice of counsel; is that correct?

2 A. On the advice of counsel, I'll forego that
3 answer.

4 Q. Do you advise the Governor on what legislation he
5 should support or not support?

6 A. No.

7 Q. Does -- is he provided that advice by someone in
8 the --

9 A. Well, let me be -- under oath, once a bill
10 reaches us, it goes through a process where several
11 different people have to actually sign off on the bill.
12 So, that could be construed as advice.

13 So, in all honesty, under oath, I guess you could
14 say if I didn't sign off on the bill, I would be
15 advising him not to sign it. If I did sign off on it, I
16 guess that would be --

17 Q. And by sign off, is there a form that you fill
18 out or --

19 A. That's correct.

20 Q. And you're not looking at all 7,000 bills,
21 correct?

22 A. No.

23 Q. So, you're only deciding whether to sign off on a
24 certain subset of those bills; is that correct?

25 A. Right.

<p style="text-align: center;">77</p> <p>1 Q. And you mentioned earlier that's based upon</p> <p>2 movement, potentially movement within either the House</p> <p>3 or the Senate?</p> <p>4 A. Sure. Yes. Excuse me.</p> <p>5 Q. Could it also be based upon the Governor's</p> <p>6 priorities?</p> <p>7 MR. BRISSENDEN: Same instruction as before.</p> <p>8 A. On advice of counsel, I won't.</p> <p>9 Q. (BY MR. FISHER) So, you decline to answer based</p> <p>10 on advice of counsel?</p> <p>11 A. I decline, yes.</p> <p>12 Q. So, we talked about your role on the actual floor</p> <p>13 of the House and the Senate and then within the</p> <p>14 chambers, which you said anyone has access to but I'm</p> <p>15 assuming you factor in more importantly in that than,</p> <p>16 for instance, I would. Are you the point of contact</p> <p>17 between the Governor's Office and the Legislature when</p> <p>18 it comes to legislation?</p> <p>19 A. I am one of the points of contact.</p> <p>20 Q. And who would other points of contact be in the</p> <p>21 office?</p> <p>22 A. I have a person that works with me whose sole</p> <p>23 function is to help with the Senate and a person that</p> <p>24 works with me whose sole purpose is the House liaison.</p> <p>25 House liaison, Senate liaison.</p>	<p style="text-align: center;">79</p> <p>1 A. Yes. I had my administrative assistant.</p> <p>2 Unfortunately, she passed away in January with cancer.</p> <p>3 Q. Sorry to hear that.</p> <p>4 A. Thank you.</p> <p>5 And then Julie Kopycinski, K O P Y C I N S K I, I</p> <p>6 believe. And recently as of maybe January, a young man</p> <p>7 named Travis Richmond, who is kind of a researcher.</p> <p>8 Q. Do you have interns?</p> <p>9 A. From time to time, we've had interns, yes. I</p> <p>10 don't have any currently or didn't during the last</p> <p>11 session.</p> <p>12 Q. Are these staff employed with you full-time,</p> <p>13 meaning between sessions as well?</p> <p>14 A. Yes.</p> <p>15 Q. And specifically your staff, who on your staff</p> <p>16 has worked on election law issues that you know of?</p> <p>17 A. I don't know anybody specifically on my staff</p> <p>18 that's worked with that other than, in general, if it's</p> <p>19 a bill involving -- if it's going through the Senate, it</p> <p>20 would be David, and if it was going through the House,</p> <p>21 it would have been Sarah or now Jennifer.</p> <p>22 Q. Okay. So, if a voter identification bill or</p> <p>23 photo identification bill was going through the Senate,</p> <p>24 David would have been the staffer that was assigned that</p> <p>25 bill as his responsibility; is that correct?</p>
<p style="text-align: center;">78</p> <p>1 Q. So, you have a House and Senate liaison. Do they</p> <p>2 sit in your office or do they sit in the Senate and</p> <p>3 House building?</p> <p>4 A. They sit in the division. They are in my</p> <p>5 division, yeah.</p> <p>6 Q. And your division is?</p> <p>7 A. It's on the first floor of the Capitol.</p> <p>8 Q. The title of your division?</p> <p>9 A. Legislative Division.</p> <p>10 Q. And you're the head of that division; is that</p> <p>11 correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And do you have -- you mentioned a couple -- I</p> <p>14 know you have a House and Senate liaison. What are</p> <p>15 their names?</p> <p>16 A. Currently, David Eichler, E I C H L E R, is the</p> <p>17 Senate liaison. Jennifer White, common spelling</p> <p>18 Jennifer, is the House liaison, but she's only been in</p> <p>19 that position for about two and a half months.</p> <p>20 Q. Okay. And prior to that, who was the --</p> <p>21 A. Sarah Floerke, F L O E R K E --</p> <p>22 Q. Thank you.</p> <p>23 A. -- was the House liaison.</p> <p>24 Q. And do you have other staff that you supervise</p> <p>25 aside from the House and Senate liaisons?</p>	<p style="text-align: center;">80</p> <p>1 A. No. No. The analysts have control of the bill.</p> <p>2 We -- our role is more interpersonal rather than an</p> <p>3 actual bill.</p> <p>4 Q. So, what do the liaisons do for you?</p> <p>5 A. They do more for the members than they do</p> <p>6 actually for me. In that role that we have -- if I</p> <p>7 happen to be on the House floor, one of them has always</p> <p>8 got a question or -- in general, they've got a request,</p> <p>9 "Hey, can you get me in to see the Governor in two</p> <p>10 weeks?"</p> <p>11 "Yeah, we'll put you down and see what his</p> <p>12 schedule looks like," that kind of thing.</p> <p>13 Q. So, it's fair to say -- you know, I've</p> <p>14 characterized these as the gatekeeper and gate opener</p> <p>15 role. Is it fair to say that your liaisons are kind of</p> <p>16 gate openers, people who want to see the Governor that</p> <p>17 are in the Legislature?</p> <p>18 A. Sure.</p> <p>19 Q. How often do you communicate with Legislators, or</p> <p>20 members of your staff? So now we've kind of identified</p> <p>21 the universe of your staff. So, how often do you or the</p> <p>22 members you just mentioned in your staff communicate</p> <p>23 with the Legislators, let's say during session first?</p> <p>24 A. Oh, during session?</p> <p>25 Q. Yes.</p>

<p style="text-align: center;">81</p> <p>1 A. Probably there's not a day that doesn't go by</p> <p>2 that I don't have a conversation with 1 of the 181 of</p> <p>3 them.</p> <p>4 Q. You mentioned conversation, is this in-person</p> <p>5 communication mostly?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Do you do E-mails at all with members of the</p> <p>8 Legislature?</p> <p>9 A. I would have to say I might have over the time</p> <p>10 but it's not a current deal. Every one of them has got</p> <p>11 my cell phone number and --</p> <p>12 Q. So --</p> <p>13 A. -- I'm there every day. So, they know where to</p> <p>14 find me.</p> <p>15 Q. Face-to-face conversations is one way?</p> <p>16 A. Uh-huh. Telephone.</p> <p>17 Q. Telephone conversations are another way --</p> <p>18 A. Right.</p> <p>19 Q. -- that you could speak with Legislators?</p> <p>20 A. Yes.</p> <p>21 Q. Do you do E-mail yourself?</p> <p>22 A. I do E-mails but it's not a way that a member</p> <p>23 during a legislative session uses to correspond with me.</p> <p>24 Q. Would members of your staff E-mail Legislators?</p> <p>25 A. They could.</p>	<p style="text-align: center;">83</p> <p>1 courtesy, we alert members if the Governor is going to</p> <p>2 be in Tyler, Texas, and so, I will call the House member</p> <p>3 and the Senate member from Tyler and say, "The Governor</p> <p>4 is going to be at this event in your town on this date</p> <p>5 and time. If you care to go, just give me a heads up."</p> <p>6 So, those type calls.</p> <p>7 Q. So, you would alert folks if the Governor is</p> <p>8 going to be in their area?</p> <p>9 A. Yeah.</p> <p>10 Q. During session, how do members generally learn</p> <p>11 about the Governor's priorities or agenda?</p> <p>12 MR. BRISSENDEN: I would object to the</p> <p>13 extent that the question calls for speculation as to how</p> <p>14 those members learn.</p> <p>15 To the extent you can answer that question</p> <p>16 as a matter of general procedure, you may do so but to</p> <p>17 the extent that question requires you to disclose</p> <p>18 communication that you've had with Legislators, with</p> <p>19 Legislators' staff, among your own staff, with state</p> <p>20 agencies or Texas Legislative Council, I would instruct</p> <p>21 you not to answer.</p> <p>22 A. Okay. In general, the Governor is required to</p> <p>23 present to a Joint Session of the Legislature early in</p> <p>24 the session. I can't give you the exact date because</p> <p>25 it, you know, ebbs and flows with whatever the calendar</p>
<p style="text-align: center;">82</p> <p>1 Q. Would they E-mail Legislators' staff potentially?</p> <p>2 A. They could. I don't know.</p> <p>3 Q. And out of session, is there a difference in the</p> <p>4 level of communication between --</p> <p>5 A. Oh, sure. They are not here but -- instead of</p> <p>6 every single day, it may be -- well, this week, I talked</p> <p>7 to one by telephone. When I came in this morning to the</p> <p>8 Capitol, there were two House members fixing to go to</p> <p>9 the Democratic convention and stopped and we visited,</p> <p>10 just chitchat.</p> <p>11 And I talked to one about a lady I know from</p> <p>12 Victoria whose daughter died of a particular illness is</p> <p>13 going to have a walk here and needed an Austin</p> <p>14 Legislator if she would kick it off. And I talked to</p> <p>15 her because she's also a nurse, and she said she would</p> <p>16 be happy to kick off this event, you know, things like</p> <p>17 that.</p> <p>18 Q. Okay. So --</p> <p>19 A. That was this morning at 8:00 o'clock, but yeah,</p> <p>20 the level of contact goes way down during the interim.</p> <p>21 Q. And given that Legislators are not here, do you</p> <p>22 have to do more telephone communications rather than</p> <p>23 face-to-face?</p> <p>24 A. Yeah, they will call me mostly. Mine when I call</p> <p>25 them now is if the Governor is going -- as a matter of</p>	<p style="text-align: center;">84</p> <p>1 is for that particular year.</p> <p>2 He's required to address the Joint Session with a</p> <p>3 State of the State speech, and usually that is the</p> <p>4 format for -- the official format for the Governor</p> <p>5 laying out his vision and initiatives.</p> <p>6 The Governor, like any political animal, there is</p> <p>7 a bully pulpit and, generally, that's done by a variety</p> <p>8 of means with -- but those are all public events. They</p> <p>9 are press releases or --</p> <p>10 Q. (BY MR. FISHER) Okay. So, the other way -- by</p> <p>11 bully pulpit, I think you mean that he might give</p> <p>12 speeches --</p> <p>13 A. Yeah.</p> <p>14 Q. -- he might write an editorial or other ways to</p> <p>15 get folks --</p> <p>16 A. He doesn't write editorials but they're all press</p> <p>17 events. So, they're public events where he plays out</p> <p>18 his positions and initiatives.</p> <p>19 Q. So, earlier when we talked about initiatives a</p> <p>20 few minutes ago, there are some initiatives you said</p> <p>21 that the Governor takes on and has drafted.</p> <p>22 A. Uh-huh.</p> <p>23 Q. And so, how would Legislators find out about</p> <p>24 those initiatives? Because, obviously, as you mentioned</p> <p>25 earlier, as the Governor, you can't bring legislation</p>

<p style="text-align: center;">85</p> <p>1 into the House or Senate. So, how would a House or</p> <p>2 Senate member know about those initiatives?</p> <p>3 MR. BRISSENDEN: Same objection and same</p> <p>4 instruction.</p> <p>5 A. In general, if the initiative takes a statutory</p> <p>6 change, they will know as soon as I show up and ask them</p> <p>7 would they carry this piece of legislation.</p> <p>8 Q. (BY MR. FISHER) So, in general, it's fair to say</p> <p>9 that the Governor, through you or a member of your</p> <p>10 staff, would ask House or Senate members to take up an</p> <p>11 initiative of his?</p> <p>12 A. That's correct.</p> <p>13 Q. All right. We've been going at it for a little</p> <p>14 while here, so, let's take a quick break. I do want to</p> <p>15 be respectful of your time.</p> <p>16 A. I'm with you guys, whatever you all need.</p> <p>17 Q. We'll do ten minutes.</p> <p>18 A. I blocked out the whole month for you, save the</p> <p>19 19th.</p> <p>20 Q. I can't stay that long.</p> <p>21 (Short recess.)</p> <p>22 Q. (BY MR. FISHER) We'll get started again.</p> <p>23 A. I need to amend one of your background questions.</p> <p>24 Q. Sure. And let me just mention at any time -- and</p> <p>25 I will ask you a question at the end --</p>	<p style="text-align: center;">87</p> <p>1 Q. And you were deposed in that case?</p> <p>2 A. Yes, I was, in the federal courthouse in Victoria</p> <p>3 by a gentleman and lady from the Department of Justice.</p> <p>4 Q. And so, the case involved a school district that</p> <p>5 had moved from at large to single member or the other</p> <p>6 way around?</p> <p>7 A. Water district, groundwater district.</p> <p>8 Q. And it moved from at large to single member</p> <p>9 districts; is that correct?</p> <p>10 A. That's right. That was part of it. That wasn't</p> <p>11 the whole issue. The whole issue was a result of a</p> <p>12 federal endangered species lawsuit.</p> <p>13 The region that this aquifer authority covered --</p> <p>14 and the federal judge, Judge Bunton, allowed the state</p> <p>15 to come up with a new regulatory scheme or policy over</p> <p>16 that six-county region. And I was the one carrying that</p> <p>17 legislation.</p> <p>18 And part of -- we realized that the old authority</p> <p>19 was not getting the job done. They weren't protecting</p> <p>20 the endangered species, and so, we replaced it, as one</p> <p>21 of the sections in a multi-page regulatory bill, with</p> <p>22 this new authority. By authority, I'm talking about the</p> <p>23 board.</p> <p>24 And when we designed that, we designed it as</p> <p>25 single member districts rather than at large. And so,</p>
<p style="text-align: center;">86</p> <p>1 A. Okay.</p> <p>2 Q. -- but at any time that you have something else</p> <p>3 that you want to say about a question that was</p> <p>4 previously asked, just let me know.</p> <p>5 A. Okay. This is on the depositions. I don't know</p> <p>6 why I didn't think of it before.</p> <p>7 In 1993, I passed -- again, I don't want it to</p> <p>8 sound like me, me, me but it was the keynote piece of</p> <p>9 legislation having to do with the Edwards Aquifer</p> <p>10 Authority, which was a water supply for the City of San</p> <p>11 Antonio and points south.</p> <p>12 Because in that bill we had removed an existing</p> <p>13 groundwater board and replaced it with a new board, it</p> <p>14 was a Department of Justice issue on the Voter Rights</p> <p>15 Act.</p> <p>16 Q. Okay.</p> <p>17 A. The board -- and so, I was deposed on that</p> <p>18 particular issue. And the law stood because I had</p> <p>19 removed or gotten rid of an old board that had at large</p> <p>20 districts and replaced it with a single member district</p> <p>21 board.</p> <p>22 Q. And so, we'll skip ahead then. I was --</p> <p>23 A. I just wanted to give you that input. I don't</p> <p>24 know why I didn't think of that when you were asking me</p> <p>25 the depo questions before.</p>	<p style="text-align: center;">88</p> <p>1 the deposition was about the formation -- the section of</p> <p>2 the bill, the formation of that. You've taken an old</p> <p>3 elected board out and replaced it with a new elected</p> <p>4 board but they liked the configuration that we had done,</p> <p>5 so, it passed.</p> <p>6 Q. And was this a case?</p> <p>7 A. Yes. There was -- some of the former board</p> <p>8 members filed under the Voters Right Act that we were</p> <p>9 denying voters.</p> <p>10 Well, the Court then ruled, "No, you actually</p> <p>11 enhance voters with single member districts rather than</p> <p>12 at large positions."</p> <p>13 Q. And do you remember the name of the case, the</p> <p>14 name of the members?</p> <p>15 A. I don't remember the name of the case. The bill</p> <p>16 was Senate Bill 1477 from the 93rd -- 1993 Legislature,</p> <p>17 whatever legislative session that was.</p> <p>18 Q. Okay. So, you mentioned the Voting Rights Act</p> <p>19 and, I assume, based upon that case and any other</p> <p>20 context you've mentioned as well, the State Affairs</p> <p>21 Committee, law enforcement, are you familiar with</p> <p>22 Section 5 of the Voting Rights Act?</p> <p>23 MR. BRISSENDEN: I'm going to instruct you</p> <p>24 to the extent you can answer that question without</p> <p>25 disclosing analysis and thoughts and work that you've</p>

<p style="text-align: center;">89</p> <p>1 done in regard to particular pieces of legislation as</p> <p>2 part of your legislative experience, you may answer.</p> <p>3 But to the extent you cannot answer that</p> <p>4 question without relying on that information, then I</p> <p>5 instruct you not to answer.</p> <p>6 A. I would have to look at it to see if I was -- I</p> <p>7 may be familiar with concepts but I --</p> <p>8 Q. (BY MR. FISHER) Okay.</p> <p>9 A. -- the legal aspects, I'm --</p> <p>10 Q. Fair enough. Are you familiar with the fact that</p> <p>11 Texas -- and you mentioned that in the context of the</p> <p>12 '93 suit, there was a change made to the election of the</p> <p>13 water district members.</p> <p>14 A. Right.</p> <p>15 Q. Are you familiar that to make those kind of</p> <p>16 changes, it has to go through a preclearance process</p> <p>17 with the Justice Department?</p> <p>18 A. I've always heard that, yes. I never knew why</p> <p>19 but I've always heard that.</p> <p>20 Q. Do you believe that compliance with the Voting</p> <p>21 Rights Act is an important goal?</p> <p>22 MR. BRISSENDEN: Objection. Vague.</p> <p>23 To the extent that you have knowledge or</p> <p>24 information that you have -- that's responsive to that</p> <p>25 question that you have learned as part of your process</p>	<p style="text-align: center;">91</p> <p>1 you need a side-bar to discuss privilege?</p> <p>2 THE WITNESS: Yeah. I'm not real sure.</p> <p>3 MR. FISHER: We'll go off the record.</p> <p>4 (Short recess.)</p> <p>5 A. Thank you for that. My answer is while I was an</p> <p>6 elected official, I had to take an oath to support,</p> <p>7 defend, protect Constitution laws of this state and of</p> <p>8 the United States.</p> <p>9 My opinion as a U.S. citizen is we're obligated</p> <p>10 to follow all of the laws -- whether we agree or not, we</p> <p>11 are obligated to follow all the laws of the land at the</p> <p>12 time.</p> <p>13 Q. (BY MR. FISHER) And so, Section 5 is the law of</p> <p>14 the land now and your understanding of the Voters Right</p> <p>15 Act -- I know you're not familiar maybe with the</p> <p>16 specific provisions but the Voting Rights Act is the law</p> <p>17 of the land now?</p> <p>18 A. That's correct.</p> <p>19 Q. So, could you describe, as a general matter, what</p> <p>20 steps either you or your staff take in the Governor's</p> <p>21 Office to ensure that bills comply with the law of the</p> <p>22 land?</p> <p>23 MR. BRISSENDEN: I believe that question</p> <p>24 would require you to divulge your opinions,</p> <p>25 recommendations and deliberations that you have</p>
<p style="text-align: center;">90</p> <p>1 and experience as a Legislator working and developing</p> <p>2 thoughts, opinions, mental impressions, analysis based</p> <p>3 on the work that you've done regarding pieces of</p> <p>4 legislation, I'd instruct you not to answer.</p> <p>5 To the extent that you have knowledge,</p> <p>6 thoughts about the Voters Right Act separate and apart</p> <p>7 from your work in the Legislature or in the Governor's</p> <p>8 Office, you may answer.</p> <p>9 A. Repeat the question again.</p> <p>10 Q. (BY MR. FISHER) Sure. The question was do you</p> <p>11 believe that compliance -- and we talked about the</p> <p>12 Voting Rights Act. You mentioned it being brought up in</p> <p>13 the context of the case that you were involved in. Do</p> <p>14 you believe that compliance with the Voters Right Act is</p> <p>15 important?</p> <p>16 MR. BRISSENDEN: Same objection and same</p> <p>17 instruction.</p> <p>18 A. If I'm -- can I have a side-bar? Is that what</p> <p>19 you call it? Can I have a conversation with my</p> <p>20 attorney?</p> <p>21 Q. (BY MR. FISHER) If it's about privilege issues,</p> <p>22 then yes. If it doesn't concern issues of privilege,</p> <p>23 related to privilege, then I would ask you to answer the</p> <p>24 question.</p> <p>25 MR. BRISSENDEN: Do you need a break? Do</p>	<p style="text-align: center;">92</p> <p>1 undertaken as a part of the Governor's Office, the</p> <p>2 Governor's decisions and policies.</p> <p>3 Also, to the extent that it invokes your</p> <p>4 thoughts and opinions and mental impressions and</p> <p>5 analysis about legislation and its process of having</p> <p>6 legislation precleared, specifically SB 14, I would</p> <p>7 instruct you not to answer.</p> <p>8 A. I will follow my attorney's advice, and if you</p> <p>9 want to clarify.</p> <p>10 Q. (BY MR. FISHER) So, you're not answering that</p> <p>11 question on the advice of your counsel, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Are you aware of any communications in the</p> <p>14 Governor's Office regarding compliance with the Voting</p> <p>15 Rights Act?</p> <p>16 A. No.</p> <p>17 Q. Does the Texas Department of State have any</p> <p>18 involvement in the proposal or enactment of legislation,</p> <p>19 to your knowledge?</p> <p>20 A. Secretary of State's Office?</p> <p>21 Q. Secretary of State's Office, correct.</p> <p>22 A. Ask it again.</p> <p>23 Q. Do they have any involvement in the proposal or</p> <p>24 enactment of laws in Texas?</p> <p>25 MR. BRISSENDEN: Objection. Compound.</p>

<p style="text-align: center;">93</p> <p>1 To the extent that you can answer that</p> <p>2 question as a general matter, you may do so.</p> <p>3 To the extent that requires you to disclose</p> <p>4 communications you've had with your staff and with state</p> <p>5 agencies, including the Secretary of State's office, I</p> <p>6 would instruct you not to answer.</p> <p>7 A. Okay. In general, I have been aware of a bill or</p> <p>8 a set of bills that have been requested by the Secretary</p> <p>9 of State's office having to do generally with logistic</p> <p>10 practices, corporate filing sections.</p> <p>11 There was one last session involving sports</p> <p>12 agents and those type but anything outside of the</p> <p>13 logistics of the operation of the office, they don't</p> <p>14 have any role.</p> <p>15 Q. (BY MR. FISHER) You mentioned the Secretary of</p> <p>16 State potentially requesting bills.</p> <p>17 A. Uh-huh.</p> <p>18 Q. Would those requests go to the Governor's Office</p> <p>19 or would those requests go to Legislators?</p> <p>20 A. Legislators.</p> <p>21 Q. So, the Governor's Office wouldn't have any role</p> <p>22 in -- I guess it would be an initiative -- proposing an</p> <p>23 initiative based upon the needs of the Texas Secretary</p> <p>24 of State's Office?</p> <p>25 MR. BRISSENDEN: My instruction to you would</p>	<p style="text-align: center;">95</p> <p>1 A. I believe that's under the Health Department.</p> <p>2 You're talking about births and deaths?</p> <p>3 Q. Correct.</p> <p>4 A. I think that's under the Health Department.</p> <p>5 Q. So, would the Health Department, similarly, come</p> <p>6 to the Governor's Office with any proposals for</p> <p>7 legislation?</p> <p>8 MR. BRISSENDEN: Same instruction.</p> <p>9 A. Generally, no, they would go to the Legislature.</p> <p>10 Q. (BY MR. FISHER) Are you aware that anyone in the</p> <p>11 Secretary of State's Office has asked the Governor to</p> <p>12 include initiatives in his public speeches, such as</p> <p>13 State of the State and other the public forums that you</p> <p>14 mentioned earlier?</p> <p>15 A. I'm not aware.</p> <p>16 Q. So, would it be fair to characterize the State of</p> <p>17 the State speech and you mentioned no editorials but the</p> <p>18 other speeches and other public appearance that you</p> <p>19 characterized as bully pulpit, is it fair to</p> <p>20 characterize that as the Governor's legislative agenda</p> <p>21 for the year, or session? I know it's every other year.</p> <p>22 A. That would be a -- that would be a format that he</p> <p>23 uses. The official format is the State of the State.</p> <p>24 Q. Is it fair to say that the Governor has a</p> <p>25 legislative agenda for each session?</p>
<p style="text-align: center;">94</p> <p>1 be the same as before.</p> <p>2 A. In general, no.</p> <p>3 Q. (BY MR. FISHER) Texas also has a Department of</p> <p>4 Protective Services, correct? Is that the correct</p> <p>5 terminology?</p> <p>6 A. Let's see. Is that Regulatory Protective -- the</p> <p>7 children?</p> <p>8 Q. DPS.</p> <p>9 A. Oh, Department of Public Safety.</p> <p>10 Q. Public Safety.</p> <p>11 A. Yes. Yes. We have a DFPS that I was getting</p> <p>12 confused about. That's family -- children, used to be</p> <p>13 called Child Welfare.</p> <p>14 Q. Thank you for the clarification on the</p> <p>15 terminology.</p> <p>16 So, would DPS, in a similar vein as the Secretary</p> <p>17 of State's Office, be involved in legislation involving</p> <p>18 license requirements, driver's license requirements,</p> <p>19 anything that falls under their general jurisdiction?</p> <p>20 MR. BRISSENDEN: Same instruction.</p> <p>21 A. I'm -- generally, if they did, they would go to</p> <p>22 the Legislature. They wouldn't come to us.</p> <p>23 Q. (BY MR. FISHER) And is the Department of Vital</p> <p>24 Statistics, is that another agency within the Texas</p> <p>25 government?</p>	<p style="text-align: center;">96</p> <p>1 A. It would be fair to say that.</p> <p>2 Q. And who would be involved in preparing that</p> <p>3 legislative agenda within the Governor's Office broadly,</p> <p>4 not just your staff?</p> <p>5 A. The entire office usually participates in that,</p> <p>6 all the divisions, other than IT. I mean, they may put</p> <p>7 it on the web site but they don't formulate policy.</p> <p>8 Q. And specifically with regard to certain subject</p> <p>9 areas, would certain subject areas be developed by</p> <p>10 certain folks in the office?</p> <p>11 A. The analysts, our Budget Planning & Policy</p> <p>12 Division.</p> <p>13 Q. So, the Budget Planning & Policy Division would</p> <p>14 handle the legislative agenda; is that correct?</p> <p>15 A. They would be charged with bringing all the</p> <p>16 information to the table, not necessarily handling the</p> <p>17 agenda.</p> <p>18 Q. And who acts on that information or who handles</p> <p>19 the agenda?</p> <p>20 A. That's when -- once a decision is made that it</p> <p>21 would take a statutory change to effect this initiative,</p> <p>22 that's when I go visit with members to see if they will</p> <p>23 have a bill drafted.</p> <p>24 Q. And just for clarification, by "statutory change"</p> <p>25 you mean something --</p>

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1 A. As opposed to a rule.

2 Q. Okay. So --

3 A. A rule, an agency can change protocol by just
4 changing their rules. And there's a process you follow
5 to change their rules. It's got to be published and
6 have hearings and all of that but if it requires a law
7 change, a statute change, then we have to have a bill
8 drafted.

9 Q. And that would also encompass something that's
10 not a change, meaning new legislation as well; is that
11 correct?

12 A. That's right. Right. Change could be amending
13 an existing law or brand new law is a change.

14 Q. And are you familiar with the American
15 Legislative Exchange Council, known as ALEC?

16 A. Yes.

17 Q. And can you generally describe for me what it is?

18 A. There are probably a myriad of associations but
19 the three that is most often attended by members of the
20 Texas Legislature when I was in the Legislature was ALEC
21 or American Legislative Exchange Council, the NCSL,
22 National Conference of State Legislators, and then
23 there's a subset of that, the SLC, Southern Legislative
24 Conference. And those three are the ones commonly
25 attended, their conferences, by various members of the

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1 Legislature.

2 Q. Are you familiar also with a group called Safe
3 Texas, Safe and Fair Elections Texas?

4 A. No.

5 Q. So, going back to the three that you did mention,
6 ALEC, NCSL and SLC --

7 A. Uh-huh.

8 Q. -- as a member of -- or as the Legislative
9 Director and a member of the Governor's Office, are
10 those things that you would attend now?

11 A. I could but I haven't.

12 Q. Would members of the Governor's staff attend
13 those type of meetings or events?

14 A. We have one gentleman that attends regularly a
15 subset of, I believe, NCSL Budget Writers. And from
16 time to time, there may be some analysts that have
17 attended various conferences of NCSL or SLC or ALEC but
18 they don't go through me to sign off to attend. That
19 involves travel and hotels and expenses. I don't do
20 that part of it.

21 Q. If we could just take one step back and let me
22 just ask you what your knowledge or what your
23 understanding is about the role of ALEC?

24 A. They are a group that's available to State
25 Legislators. I'm sure they have staff that formulate

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1 general policy that if a House member or Senate member
2 said, you know, "I'm thinking about changing daylight
3 savings time," and he would call up there and say, "Do
4 you all have any proposals or have you all researched
5 this?" It's just a resource really. They act as a
6 resource to -- for members if they want to use them
7 to -- under the guise of why reinvent the wheel if
8 somebody has already invented it, what have you all
9 done.

10 Q. You mentioned members and Legislators. Is this
11 organization catered to Legislators and not to Governors
12 or members of the Governor's staff?

13 A. Right. Governors are usually either the NGA,
14 National Governors Association, that we're not a member
15 of, or the RGA, Republican Governors Association.
16 Governor Perry was Chair of that.

17 And I'm sure there's a DGA, Democratic Governors
18 Association but I'm not familiar. I know Ann Richards,
19 when she was Governor, was a member of that.

20 But DGA and NGA have kind of coalesced into one
21 group because that's everybody, the Rs and Ds.

22 Q. The RGA, what role do they provide for the
23 Governor?

24 MR. BRISSENDEN: I'm going to instruct you
25 to the extent --

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1 A. I don't know. I don't go to those.

2 Q. (BY MR. FISHER) Are you aware of either ALEC,
3 NCSL or SLC providing any technical assistance to the
4 Governor with regard to his initiatives and legislation?

5 A. No.

6 Q. You mentioned you don't know about RGA but are
7 you aware of RGA providing any technical assistance to
8 the Governor with regard to his initiatives or the
9 legislative agenda?

10 MR. BRISSENDEN: I'm going to instruct you
11 to the extent that --

12 A. I don't know.

13 MR. BRISSENDEN: -- you have information
14 that would be privileged not to disclose that.

15 A. I don't.

16 Q. (BY MR. FISHER) Your answer is you don't know?

17 A. I don't know.

18 Q. And you haven't personally attended any RGA
19 conferences; is that correct?

20 A. I went to one RGA conference on health. I look
21 at her, she used to be our go-to person on health
22 issues.

23 When her predecessor was there, I attended a
24 morning session at Reynolds Plantation in Georgia and
25 played golf in the afternoon.

<p style="text-align: center;">101</p> <p>1 Q. Was the -- and this would not be with regard to</p> <p>2 the afternoon, obviously, but was the topic of election</p> <p>3 law or voter identification discussed at that</p> <p>4 conference?</p> <p>5 A. No, sir. It was strictly Medicare, Medicaid</p> <p>6 issues.</p> <p>7 Q. Was the topic of voter fraud discussed?</p> <p>8 A. No, sir. That was probably four years ago.</p> <p>9 Q. When -- I failed to ask you this question earlier</p> <p>10 and I should have because I do understand as a State</p> <p>11 Senator, you're employed I guess what could be</p> <p>12 considered part-time; is that correct?</p> <p>13 A. In Texas, yes, citizen Legislators, meaning</p> <p>14 you're here for 140 days and then you have to go back</p> <p>15 and live under the laws that you pass.</p> <p>16 Q. I do remember that, from Governor Perry's</p> <p>17 campaign, in fact.</p> <p>18 A. Right.</p> <p>19 Q. Were you employed in any other capacity while a</p> <p>20 member of the Texas State Senate?</p> <p>21 A. Yes.</p> <p>22 Q. And what was that?</p> <p>23 A. I was manager of a private security company,</p> <p>24 rent-a-cops, burglar alarms, fire alarms, access</p> <p>25 systems, electric gates.</p>	<p style="text-align: center;">103</p> <p>1 A. Well, I'm Chairman of the board of a bank.</p> <p>2 Q. What bank is that?</p> <p>3 A. Frontier Bank of Texas. It's in Elgin, Texas and</p> <p>4 a branch in Bastrop. And then I serve on the board of</p> <p>5 the First Tee of Greater Austin, which is teaching life</p> <p>6 skills for golf.</p> <p>7 Q. And are those positions -- and I'm assuming</p> <p>8 you're not compensated for those positions?</p> <p>9 A. No. We're a de novo bank. So, board members</p> <p>10 can't be compensated for at least seven years under the</p> <p>11 Federal Banking Act. This was a bank that we started a</p> <p>12 couple of years ago.</p> <p>13 Q. So, switching directions, do you remember when</p> <p>14 you last renewed your driver's license?</p> <p>15 Strike that.</p> <p>16 Let me ask you first do you have a Texas driver's</p> <p>17 license?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Do you remember when you last renewed your</p> <p>20 driver's license?</p> <p>21 A. Yes. When this became full-time, we moved</p> <p>22 from --</p> <p>23 Q. I'm sorry, by "this"?</p> <p>24 A. The job with Governor Perry.</p> <p>25 Q. Okay.</p>
<p style="text-align: center;">102</p> <p>1 Q. And how long did you do that?</p> <p>2 A. I did that from 1985 until I went to work for</p> <p>3 Governor Perry, until 2007.</p> <p>4 Q. Okay. So, for over 20 years --</p> <p>5 A. Right.</p> <p>6 Q. -- you had a job outside of being --</p> <p>7 A. Right.</p> <p>8 Q. -- a Texas State Legislator?</p> <p>9 A. Right.</p> <p>10 Q. And now that you're working for Governor Perry,</p> <p>11 it sounds like you don't have another position --</p> <p>12 A. No.</p> <p>13 Q. -- is that correct?</p> <p>14 A. Well --</p> <p>15 Q. Aside from grandfather?</p> <p>16 A. Grandfather, and I was railroaded -- they call it</p> <p>17 an election but I'm the block captain for Neighborhood</p> <p>18 Watch. That's it.</p> <p>19 Q. My wife is the president of our homeowners</p> <p>20 association. I understand those things happen.</p> <p>21 A. Yeah.</p> <p>22 Q. Let me ask you when you -- do you know when you</p> <p>23 last renewed --</p> <p>24 A. Were you asking about boards?</p> <p>25 Q. Sure, if you're a member of any boards.</p>	<p style="text-align: center;">104</p> <p>1 A. When that became full-time and we moved from</p> <p>2 Victoria, Texas to Round Rock, Texas where we now reside</p> <p>3 and I had to change my driver's license to reflect the</p> <p>4 new address, at that time I could prerenew. It wasn't</p> <p>5 up for renewal but I prerenewed. And that was three</p> <p>6 years ago -- actually, four years ago. Excuse me.</p> <p>7 Q. So, you moved from Victoria to Round Rock, which</p> <p>8 is in the Austin area --</p> <p>9 A. Yes.</p> <p>10 Q. -- because of the job in Austin?</p> <p>11 A. Just north of Austin.</p> <p>12 Q. And where did you renew your license? Was it in</p> <p>13 Round Rock or Victoria?</p> <p>14 A. It was actually in Austin.</p> <p>15 Q. Austin?</p> <p>16 A. At the DPS office. There used to be an office</p> <p>17 just across the street from the Capitol. They've now</p> <p>18 moved that function out to their main campus out on</p> <p>19 Lamar Street but it was easy to walk across the street</p> <p>20 and say, "Hey, I need to change my address on my</p> <p>21 driver's license."</p> <p>22 Q. And how far was it when it was the old office,</p> <p>23 how far was that from your work location?</p> <p>24 A. The old office was across the street from the</p> <p>25 Capitol.</p>

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1 Q. And where is the new office? How far would that
2 be?
3 A. I think they've moved it out -- I'm not sure
4 where they moved it but I guess you would go to the DPS
5 headquarters. They are on Lamar Street, which would be,
6 from the Capitol, as the crow flies, we say, maybe four
7 miles.
8 I could have done it in -- in fact, my wife did
9 it in Round Rock, and that's about two miles from where
10 we live. They have a substation there. You can go in
11 and get your driver's license.
12 Q. And do you know how long it took you to take care
13 of the change in address on your driver's license?
14 A. The effective change was immediate. You get a
15 temporary piece of paper, and you still have your old
16 one with the old address but you have a piece of paper.
17 And then it took about -- I think I got it in the
18 mail four days later maybe.
19 Q. Did the piece of paper have your photo
20 identification on it?
21 A. No. It's just a receipt.
22 Q. So, while you were waiting for the license with
23 the renewed address to come, you didn't have an
24 address -- you didn't have a license with a photo
25 identification that reflected your current address; is

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1 that correct?
2 A. That's correct.
3 Q. Were you born in Texas?
4 A. Yes.
5 Q. Do you have a copy of your birth certificate?
6 A. Not with me but I do have a copy of it.
7 Q. And do you know where you would go to get a copy
8 if you didn't have yours any more, if, for instance,
9 between Victoria and Round Rock, the movers left the box
10 somewhere?
11 A. Yes, I can go online and get it from the Health
12 Department.
13 Q. And do you know how much that would cost?
14 A. No, I don't.
15 Q. Do you know how long that would take to get?
16 A. No, I don't.
17 Q. And did you vote a couple of weeks ago in the
18 Texas primary?
19 A. Yes, I did.
20 Q. And how far was the polling place from your home
21 or work, wherever you go?
22 A. From my home, mile and a half, two miles.
23 Q. And did you vote in person?
24 A. Yes.
25 Q. Do you prefer to vote in person?

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1 A. I usually do, yes.
2 Q. Have you ever voted by absentee?
3 A. No. Well, under the old system, I did a couple
4 of times in city elections because we were in session
5 and I couldn't get back to Victoria when I lived there.
6 So, I would request an absentee ballot be mailed
7 to me, and I would fill it out and mail it back in. I
8 did that a couple of times over the years but it was for
9 city elections or local elections when they came up
10 during the session.
11 Q. I know you've been a candidate numerous, numerous
12 times, so, that might preclude this happening but do you
13 have any experience related to election administration,
14 for instance, working as a poll worker, as a poll
15 watcher, anything of that sort?
16 A. No.
17 Q. Have you, while voting, ever witnessed someone
18 trying to impersonate another voter in the polling
19 place?
20 A. I have not witnessed that.
21 Q. Have you ever witnessed someone other than a U.S.
22 citizen trying to vote in a polling place?
23 A. I have not.
24 Q. And the system for absentee ballots that you
25 mentioned that went through a change, can you just tell

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1 me what it was previously and what it is now?
2 A. Yes. Used to, before we had early voting, all we
3 had was absentee voting. And once we initiated early
4 voting, then it pretty much did away with the reason
5 that you do absentee, other than folks that cannot get
6 to the polls. Nursing home, those type people, we still
7 have that available to them but basically when we
8 changed the law -- and I can't remember when it was. It
9 was back several years ago -- that allowed you a certain
10 period of time for early voting. The intent was if you
11 knew you were going to be out of town or whatever, which
12 everybody is eligible for early voting. You didn't have
13 to give a reason.
14 Q. I assume that doesn't apply to folks in the
15 military or overseas for some reason?
16 A. Yes, they have a different -- HAVA, is it?
17 Q. There's a federal rule that covers that?
18 A. Right.
19 Q. Another acronym?
20 A. Right.
21 Q. You said a few years ago, was this during your
22 time in the Governor's office or were you still in the
23 Senate?
24 A. No, I was in the Senate when that changed.
25 Q. Were you involved in that legislation at all in

<p style="text-align: center;">109</p> <p>1 the Senate?</p> <p>2 A. No.</p> <p>3 Q. Did you vote on it?</p> <p>4 A. I'm sure I probably did if it was in the Senate,</p> <p>5 yeah.</p> <p>6 Q. Do you remember which way you voted on that</p> <p>7 legislation?</p> <p>8 A. I would have probably voted for it.</p> <p>9 Q. Do you remember the bill number or anything?</p> <p>10 A. (Witness indicated by shaking his head</p> <p>11 negatively.)</p> <p>12 Q. No?</p> <p>13 A. No. Excuse me. No.</p> <p>14 Q. So, we've talked a little bit about Texas'</p> <p>15 current voting system. We just talked about a change</p> <p>16 that it went through. What is your understanding of the</p> <p>17 current system in Texas for verifying the identity of a</p> <p>18 voter?</p> <p>19 A. When we vote, I take my voter registration card</p> <p>20 and present that to the man or lady that's manning the</p> <p>21 desk, and then they hand me a ballot -- or they hand</p> <p>22 me -- they walk me over to an electronic carousel and we</p> <p>23 vote electronically now.</p> <p>24 If I don't have my card -- and a couple of times</p> <p>25 I've met my wife. She said, "Hey, we need to vote</p>	<p style="text-align: center;">111</p> <p>1 A. Okay. And tell me your question again.</p> <p>2 Q. (BY MR. FISHER) Yes. And I'll rephrase slightly</p> <p>3 to do away with the vagueness.</p> <p>4 But are you aware of any problems with Texas'</p> <p>5 current system for verifying the identity of a voter</p> <p>6 when voting, which we've just described as voter</p> <p>7 registration card or, in the absence of that, some other</p> <p>8 form of ID, which you said was a license?</p> <p>9 MR. BRISSENDEN: My instruction to you would</p> <p>10 be the same.</p> <p>11 THE WITNESS: Okay. And that instruction is</p> <p>12 not to answer?</p> <p>13 MR. BRISSENDEN: To the extent that you can</p> <p>14 answer the question based on information that's in the</p> <p>15 public record --</p> <p>16 THE WITNESS: Oh, okay.</p> <p>17 MR. BRISSENDEN: -- testimony, evidence that</p> <p>18 was presented in the public record, you may --</p> <p>19 A. I don't have any information in the public</p> <p>20 record.</p> <p>21 Q. (BY MR. FISHER) Let's keep in mind as we move</p> <p>22 forward, I know SB 14 was mentioned, you were not in the</p> <p>23 Texas Legislature when SB 14 was passed; is that</p> <p>24 correct?</p> <p>25 A. That's correct.</p>
<p style="text-align: center;">110</p> <p>1 before 7:00 o'clock." And I will give them my name, and</p> <p>2 I was asked for my ID, and I would give them my driver's</p> <p>3 license.</p> <p>4 Q. So, you either present a voter registration card</p> <p>5 or a license; is that correct?</p> <p>6 A. Right.</p> <p>7 Q. And has that been your experience in all of the</p> <p>8 elections you've voted in?</p> <p>9 A. That I've had to do it that way, yes.</p> <p>10 Q. And that's the way you voted a couple of weeks</p> <p>11 ago in the primary?</p> <p>12 A. I had my voter registration card, uh-huh.</p> <p>13 Q. Are you aware of any problems with the current</p> <p>14 system in Texas?</p> <p>15 MR. BRISSENDEN: Objection. Vague.</p> <p>16 To the extent that you have knowledge or</p> <p>17 information that is responsive to that question and that</p> <p>18 question requires you to divulge that knowledge in</p> <p>19 connection with your work on legislation pertaining to</p> <p>20 voter ID legislation, including SB 14, your thoughts,</p> <p>21 opinions, mental impressions and analysis, I would</p> <p>22 instruct you not to answer the question.</p> <p>23 To the extent that you have information that</p> <p>24 is contained as a part of the public record, you may</p> <p>25 answer.</p>	<p style="text-align: center;">112</p> <p>1 Q. When did you first hear of any support for</p> <p>2 enacting photo identification for voting in Texas?</p> <p>3 MR. BRISSENDEN: I'm sorry, could you read</p> <p>4 the question back?</p> <p>5 (Whereupon, the requested testimony was read</p> <p>6 back as follows:</p> <p>7 QUESTION: When did you first hear of any support</p> <p>8 for enacting photo identification for voting in</p> <p>9 Texas?)</p> <p>10 MR. BRISSENDEN: Again, to the extent that</p> <p>11 you have knowledge that's contained in the public</p> <p>12 record --</p> <p>13 THE WITNESS: In the public record?</p> <p>14 MR. BRISSENDEN: -- as a source of</p> <p>15 information, you may disclose that.</p> <p>16 To the extent that you have knowledge or</p> <p>17 information that is a part of your work in connection</p> <p>18 with legislation, particularly voter ID bills and SB 14,</p> <p>19 do not disclose that information.</p> <p>20 A. Okay. In the public record, the first time I was</p> <p>21 aware of a bill was in 19 -- excuse me -- 2009.</p> <p>22 Q. (BY MR. FISHER) So, a quick question. Just back</p> <p>23 up for a second on your understanding of Texas' current</p> <p>24 system for verifying the identity of a voter. If you</p> <p>25 didn't have that registration card, is it your</p>

<p style="text-align: center;">113</p> <p>1 understanding you could present a nonphoto ID, so, a</p> <p>2 utility bill, for instance, to verify your</p> <p>3 identification as well?</p> <p>4 A. I don't know what they have to do. I always</p> <p>5 just -- as a matter of course, I walk in and put it down</p> <p>6 and they take it. I don't know what's actually required</p> <p>7 but I use it because it's easy to pull out and hand it</p> <p>8 to them and say, "Here's who I am."</p> <p>9 Q. So, it's fair to say the election worker doesn't</p> <p>10 ask you for your driver's license, you just produce it</p> <p>11 and --</p> <p>12 A. I just produced it.</p> <p>13 Q. So, a similar question. We talked about in the</p> <p>14 ground rules portion the difference between voter ID and</p> <p>15 photo ID. And I'll ask you the same question.</p> <p>16 When did you first hear about support for</p> <p>17 enacting a voter ID identification requirement in Texas?</p> <p>18 MR. BRISSENDEN: My instruction would be the</p> <p>19 same to you. To the extent you have information that's</p> <p>20 contained in the public record, you may disclose that.</p> <p>21 To the extent you have information that's</p> <p>22 not in the public record, that's part of your work on</p> <p>23 legislation that you developed or gained, I instruct you</p> <p>24 not to answer.</p> <p>25 A. Okay. Public records would be the bill that was</p>	<p style="text-align: center;">115</p> <p>1 document. You'll see in the upper left-hand corner</p> <p>2 Texas Legislature Online History, Bill HB 1706. And so,</p> <p>3 to the extent that that helps you with this piece of</p> <p>4 legislation, do you recognize Exhibit 191 and Exhibit</p> <p>5 44?</p> <p>6 A. Is this 44?</p> <p>7 Q. Yes. The copy of the legislation is Exhibit 44,</p> <p>8 and 191 is the Texas Legislature Online History I just</p> <p>9 handed you.</p> <p>10 A. I recognize it as a bill. I don't -- whether</p> <p>11 it's final or as filed or whatever, I can't recognize</p> <p>12 that. This is the first time I've seen this but I'm</p> <p>13 familiar with the Texas Legislature Online and their</p> <p>14 format.</p> <p>15 MR. BRISSENDEN: So our record is clear and</p> <p>16 clean, can we have the exhibit here marked as</p> <p>17 Exhibit 44?</p> <p>18 MR. FISHER: Yes.</p> <p>19 MR. BRISSENDEN: Great. Thank you.</p> <p>20 Q. (BY MR. FISHER) So, Senator, were you in the</p> <p>21 Senate in 2005? Is that correct?</p> <p>22 A. That is correct.</p> <p>23 Q. And based upon the bill history, does it appear</p> <p>24 that HB 1706 came to the Senate in 2005? And I direct</p> <p>25 you to probably the first page of that Online History</p>
<p style="text-align: center;">114</p> <p>1 filed in the 2009 session.</p> <p>2 Q. (BY MR. FISHER) And what bill was that, Senator?</p> <p>3 A. I don't know what the number was. It was a photo</p> <p>4 ID, voter ID.</p> <p>5 Q. Do you recall supporting any voter ID or photo ID</p> <p>6 measures while you were in the Texas Legislature?</p> <p>7 A. When I was in the Legislature, I don't recall.</p> <p>8 Q. Do you recall ever voting on either photo ID or</p> <p>9 voter ID legislation?</p> <p>10 A. No.</p> <p>11 Q. All right. I'm going to hand you what's been</p> <p>12 previously marked as Exhibit 44. And so, what this is</p> <p>13 is a copy of a bill. You notice in the upper right-hand</p> <p>14 corner it says HB No. 1706?</p> <p>15 A. Uh-huh.</p> <p>16 Q. I'll let you take a look at this prior to asking</p> <p>17 you any questions about it.</p> <p>18 Did you have a chance to take a look?</p> <p>19 A. Okay.</p> <p>20 Q. So, just for clarification purposes -- and we'll</p> <p>21 make this easier. I can walk and chew gum at the same</p> <p>22 time. So, I'll introduce as well -- I'll give you</p> <p>23 Exhibit 191.</p> <p>24 (Exhibit 191 marked.)</p> <p>25 Q. (BY MR. FISHER) And Exhibit 191 is a three-page</p>	<p style="text-align: center;">116</p> <p>1 where you'll see the --</p> <p>2 A. Okay. Yeah, it looks like it was. It was</p> <p>3 referred to State Affairs.</p> <p>4 Q. And were you on the State Affairs Committee in</p> <p>5 2005 in the Senate?</p> <p>6 A. I'll have to check. I think I was. I wasn't</p> <p>7 Chair of it by then. I had moved over to Chair of</p> <p>8 Natural Resources.</p> <p>9 Q. So, as a member -- if you were a member of the</p> <p>10 State Affairs Committee, would this have been a bill</p> <p>11 that would have come to your committee and been</p> <p>12 considered by it based on the Online history in</p> <p>13 Exhibit 191?</p> <p>14 A. If the Chairman would have granted a hearing, it</p> <p>15 would have come to the full committee. We wouldn't have</p> <p>16 seen it until the Chair decides to grant a hearing.</p> <p>17 According to this history, it was just referred.</p> <p>18 Q. What does referred mean?</p> <p>19 A. Bills are required three readings, if you will.</p> <p>20 The first time a bill -- the first reading is the</p> <p>21 Secretary of the Senate says, "House Bill 1706 referred</p> <p>22 to the Senate Committee on State Affairs." That's the</p> <p>23 first reading.</p> <p>24 Then it's referred to the committee, and the</p> <p>25 committee Chairman makes a determination whether to</p>

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1 grant a hearing on that particular bill. If the Chair
2 decides, "I'm not giving it a hearing," it's done, it's
3 dead, it's gone.

4 Q. And based on the Online History here, what does
5 it appear?

6 A. It appears it was just referred. There was no
7 committee action, so, we didn't have a hearing on it,
8 according to this.

9 Q. And --

10 A. If you'll look in the House, what I'm talking
11 about, it was filed February 28th of '05, read for the
12 first time, referred to the Elections Committee,
13 referred directly to subcommittee by Chair, that means
14 the Chairman decided to give it a hearing but
15 immediately referred it to that subcommittee.

16 Then they scheduled a public hearing of the
17 subcommittee. So, that's an indication that the bill --
18 there was some action other than just arriving, and you
19 can read on and on and on.

20 The way this reads in this History, it was
21 received from the House 05-04. It was -- has the first
22 reading.

23 And when that occurs, the Secretary of the Senate
24 has usually got a stack of bills, and she's just going
25 through, "House Bill 1706 referred to State Affairs.

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1 House Bill 2105 referred to" -- it's just boom, boom,
2 machine gun.

3 And then when you see here, "Referred to State
4 Affairs," that means there was no action taken by the
5 committee. So, other than the Chairman and staff
6 looking at it and saying, "I'm not giving that a
7 hearing," that's all that happened.

8 Q. To come to that conclusion, you've compared
9 what's on the third page that indicates the actions of
10 the House to what's on the first page of the exhibit
11 indicating the actions of the Senate?

12 A. Right.

13 Q. So, if I could direct your attention back to
14 Exhibit 44, which was the actual bill language.

15 A. Okay.

16 Q. Are you testifying here today that you are not
17 familiar with the bill or not familiar with the
18 language? Is that correct?

19 A. That's correct.

20 Q. Just backing up for a second, do you have any
21 knowledge based on the public record as to why the
22 Online History from the Senate State Affairs Committee
23 reads as it does, meaning read for the first time,
24 referred and then no further action?

25 MR. BRISSENDEN: Again, we're limiting that

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1 to what is in the public record.

2 A. Under the public record, it means no action was
3 taken by the Senate.

4 Q. (BY MR. FISHER) So, returning back to
5 Exhibit 44 -- and, like I said, I'm going to walk and
6 chew gum at the same time here with two exhibits -- are
7 you aware of the forms of allowable voter ID under HB
8 1706?

9 A. I'm not familiar. I could read.

10 Q. And if I could direct your attention to Page 4
11 under Documentation of Proof of Identification.

12 A. Okay.

13 Q. And that's 63.0101.

14 A. Okay.

15 Q. And so, if you could just take a look at those
16 forms of identification for me.

17 A. Okay.

18 Q. And I believe that goes until Page 7.

19 A. Right. And if it helps you, when you're reading
20 Texas proposals, anything not underlined is existing
21 language in law. Anything underlined would be proposed
22 new language.

23 Q. And you did mention --

24 A. If that helps.

25 Q. You did mention the form of the bill earlier.

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1 The bills we're using -- we'll use some more -- I
2 believe are the engrossed versions. We've checked that
3 but we can always go back to the exhibit and verify
4 that.

5 A. Okay.

6 Q. So, the language you're looking at would be that
7 version.

8 A. Okay. Engrossed meaning the language that came
9 over from the House?

10 Q. Correct.

11 A. Okay. All right. Okay.

12 Q. So, could you describe the types of
13 identification that were permissible under this version
14 of the bill?

15 And I can be more specific.

16 Does it include photo identification and nonphoto
17 identification?

18 A. It does include both.

19 Q. And as far as the driver's license, the
20 expiration date of the driver's license in A 1, what is
21 that?

22 A. Wait a minute. That has not expired or that
23 expired no earlier than two years before the date of
24 presentation.

25 Q. Okay. And under 3, does it allow -- that would

<p style="text-align: center;">121</p> <p>1 be the next page -- a valid employee identification</p> <p>2 card, is that correct, that contains the person's</p> <p>3 photograph?</p> <p>4 A. Yes. Uh-huh.</p> <p>5 Q. And does it allow in 6 for student identification</p> <p>6 cards issued by either public or private institutions of</p> <p>7 higher education?</p> <p>8 A. It does.</p> <p>9 Q. And does it allow for identification cards issued</p> <p>10 by a Texas State agency? And I direct your attention to</p> <p>11 8.</p> <p>12 A. It does.</p> <p>13 Q. And does it allow for photo identification cards</p> <p>14 issued by a County Elections Administrator or a County</p> <p>15 Clerk? And I direct your attention to 9.</p> <p>16 A. It does.</p> <p>17 Q. And so, sitting here today, are you aware of any</p> <p>18 communications you had relating to HB 1706 while you</p> <p>19 were in the Texas State Senate?</p> <p>20 A. I'm not aware.</p> <p>21 Q. And are you aware of the source of any of the</p> <p>22 legislative language in that HB 1706?</p> <p>23 A. No.</p> <p>24 Q. And when we talked about your search for</p> <p>25 documents earlier, would your search for documents have</p>	<p style="text-align: center;">123</p> <p>1 There's nothing in the Senate rules that says every bill</p> <p>2 on elections has got to go here, every bill on water has</p> <p>3 got to go there. It's really up to -- the Lieutenant</p> <p>4 Governor makes the determination.</p> <p>5 And then it's given back to the Secretary of the</p> <p>6 Senate, and she goes through the formality of the first</p> <p>7 reading, and that's when it's -- that's when it's read.</p> <p>8 Q. (BY MR. FISHER) And my question may be slightly</p> <p>9 different than that.</p> <p>10 A. Okay.</p> <p>11 Q. Based on your -- and we talked about longstanding</p> <p>12 experience in the Senate and we talked about numerous,</p> <p>13 numerous committees, given the small size of the Senate,</p> <p>14 they made you do everything -- what is the purpose of</p> <p>15 referring a bill to one of these committees? What</p> <p>16 actions do they take on these bills?</p> <p>17 MR. BRISSENDEN: My instruction to you would</p> <p>18 be the same.</p> <p>19 A. Okay. Generally, the purpose of the committee</p> <p>20 process is to allow members of the public to participate</p> <p>21 in the process.</p> <p>22 At that point, if a hearing is granted, anybody</p> <p>23 for or against a proposal comes in and testifies and</p> <p>24 offers testimony or exhibits or whatever they want to</p> <p>25 bring to the members' attention, their likes or dislikes</p>
<p style="text-align: center;">122</p> <p>1 turned up any documents related to HB 1706?</p> <p>2 A. No.</p> <p>3 Q. So, we talked about 1706 being referred to the</p> <p>4 State Affairs Committee, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And --</p> <p>7 A. In the Senate.</p> <p>8 Q. In the Senate. Correct. And so, what is the</p> <p>9 purpose of referring a bill to the State Affairs</p> <p>10 Committee?</p> <p>11 MR. BRISSENDEN: I'm going to instruct you</p> <p>12 at this time that to the extent you can answer that</p> <p>13 question as a general matter, what the general procedure</p> <p>14 is or the purpose is, you may answer.</p> <p>15 To the extent that it requires you to</p> <p>16 disclose your thoughts, analysis, opinions or mental</p> <p>17 impressions as to this specific piece of legislation at</p> <p>18 that time, I instruct you not to answer.</p> <p>19 A. Okay. Generally, when a bill is received in the</p> <p>20 Senate, either it has a Senate origination or, in this</p> <p>21 case, a House bill that has come over from the House.</p> <p>22 The Lieutenant Governor makes a determination of</p> <p>23 an assignment to the various committees in the Senate.</p> <p>24 Then, as I mentioned, after, in this case, he, Governor</p> <p>25 Dewhurst, makes a determination where the bill will go.</p>	<p style="text-align: center;">124</p> <p>1 of a particular proposal.</p> <p>2 Q. (BY MR. FISHER) And as a Chair of committees, as</p> <p>3 someone who has served on committees, do you think that</p> <p>4 is an important role for the public to play in</p> <p>5 consideration of a bill?</p> <p>6 MR. BRISSENDEN: Objection. Vague.</p> <p>7 To the extent you can answer that question</p> <p>8 without disclosing your thoughts, opinions, mental</p> <p>9 analysis and impressions about your experience in</p> <p>10 connection with specification legislation, pieces of</p> <p>11 legislation, including SB 14, you may answer.</p> <p>12 A. Okay. I extremely support the public's right to</p> <p>13 participate in the process.</p> <p>14 Q. (BY MR. FISHER) And did you find that the public</p> <p>15 participating in the process, as a committee member and</p> <p>16 as a Chair of a committee, was helpful when determining</p> <p>17 what to do about certain pieces of legislation?</p> <p>18 MR. BRISSENDEN: Same instruction.</p> <p>19 You're asking him as a general matter?</p> <p>20 A. As a general matter?</p> <p>21 Q. (BY MR. FISHER) We can read back the question.</p> <p>22 A. Okay.</p> <p>23 (Whereupon, the requested testimony was read back</p> <p>24 as follows:</p> <p>25 QUESTION: And did you find that the public</p>

<p style="text-align: center;">125</p> <p>1 participating in the process, as a committee</p> <p>2 member and as a Chair of a committee, was helpful</p> <p>3 when determining what to do about certain pieces</p> <p>4 of legislation?)</p> <p>5 MR. BRISSENDEN: Because you include the</p> <p>6 term "specific legislation," in that question --</p> <p>7 MR. FISHER: The term was "certain pieces of</p> <p>8 legislation."</p> <p>9 MR. BRISSENDEN: "Certain pieces of</p> <p>10 legislation," that implicates specific litigation and</p> <p>11 would require him to disclose his mental impressions,</p> <p>12 thoughts, analysis and impressions as to specific pieces</p> <p>13 of legislation and call upon his experience in relation</p> <p>14 to that legislation, that specific legislation.</p> <p>15 So, I would instruct you not to answer.</p> <p>16 A. Okay. On advice of counsel, I'll not answer.</p> <p>17 Q. (BY MR. FISHER) Was the input of the public</p> <p>18 helpful when you served as a committee member and also</p> <p>19 as a Chair of a committee?</p> <p>20 A. Generally? Generally?</p> <p>21 Q. Yes, generally.</p> <p>22 A. Yes, generally, it was.</p> <p>23 Q. So, with regard to Exhibit 44 and the</p> <p>24 accompanying exhibit describing the legislative</p> <p>25 history -- and I'm not going to make you go back through</p>	<p style="text-align: center;">127</p> <p>1 A. I'm not aware.</p> <p>2 MR. FISHER: I think here is a good time --</p> <p>3 it's almost 12:45. We'll take a lunch break.</p> <p>4 (Lunch recess.)</p> <p>5 (Exhibit 192 marked.)</p> <p>6 Q. (BY MR. FISHER) Okay. Senator, I'm going to</p> <p>7 give you what has been marked as Exhibit 192, if you</p> <p>8 could take a look at that. And Exhibit 192 says Texas</p> <p>9 Politics on the top. It's dated May 4th, 2005. It</p> <p>10 says, "Notes from the left on the state of politics in</p> <p>11 Texas today."</p> <p>12 And I'll go ahead and just read the first two</p> <p>13 lines for you. It says, "Latinos for Texas blog</p> <p>14 breaking: Senator Dems unite since against HB 1706.</p> <p>15 Senate Democrats block HB 1706 before it is passed. 11</p> <p>16 Democrats sign letter to block voter picture ID bill.</p> <p>17 As the Texas House tries once again to pass HB 1706 by</p> <p>18 Mary Denny, Senate Democrats have signed its death</p> <p>19 warrant."</p> <p>20 And so, we were just discussing HB 1706. We were</p> <p>21 discussing a letter written by Senate Democrats at the</p> <p>22 time. Do you remember -- does this refresh your</p> <p>23 recollection at all about the circumstances of HB 1706</p> <p>24 at that time?</p> <p>25 A. None.</p>
<p style="text-align: center;">126</p> <p>1 and read any more --</p> <p>2 A. Okay.</p> <p>3 Q. -- but do you recall a letter from Senate</p> <p>4 Democrats -- and you were a Senate Democrat at the time,</p> <p>5 correct?</p> <p>6 A. Uh-huh.</p> <p>7 Q. Is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall a letter from Senate Democrats</p> <p>10 indicating that they would not support bringing this</p> <p>11 bill to a vote in the Senate?</p> <p>12 MR. BRISSENDEN: To the extent that that</p> <p>13 question requires you to disclose communications that</p> <p>14 you've had with other Legislators or their staff or your</p> <p>15 own staff, I would instruct you not to answer the</p> <p>16 question.</p> <p>17 A. On advice of attorney, I will -- I'll not answer</p> <p>18 the question.</p> <p>19 Q. (BY MR. FISHER) Are you aware of a public letter</p> <p>20 issued by Senate Democrats in 2005 in relation to HB</p> <p>21 1706 saying that they would not support bringing HB 1706</p> <p>22 to a vote on the floor in the Senate?</p> <p>23 A. I don't recall. Did I sign it? I don't recall.</p> <p>24 Q. Are you aware of whether the Governor took a</p> <p>25 public position on 1706?</p>	<p style="text-align: center;">128</p> <p>1 Q. And how many Democrats were --</p> <p>2 A. No. Excuse me.</p> <p>3 Q. How many Democrats were in the Senate at that</p> <p>4 time in 2005?</p> <p>5 A. I can't remember. I'd have to look.</p> <p>6 Q. Is it possible that there were more than 11</p> <p>7 Democrats in the Senate in 2005?</p> <p>8 A. Yeah, it's possible. I would have to look. I</p> <p>9 just don't recall.</p> <p>10 Q. So, it is possible that you either signed or did</p> <p>11 not sign the letter?</p> <p>12 A. That's possible.</p> <p>13 Q. Okay. We can go ahead and put that one to the</p> <p>14 side.</p> <p>15 So, between the 2005 and 2007 sessions, do you</p> <p>16 recall holding a public hearing on a committee interim</p> <p>17 charge in the State Affairs Committee?</p> <p>18 A. No.</p> <p>19 Q. Do you recall holding a public hearing regarding</p> <p>20 a committee interim charge concerning a study and</p> <p>21 recommendations on how election officials could verify</p> <p>22 the identity of a voter without hindering a person's</p> <p>23 right to vote?</p> <p>24 A. No. And let me be sure that we're clear. I was</p> <p>25 just on the committee at that time, so, I wouldn't have</p>

<p style="text-align: center;">129</p> <p>1 been -- when you asked me the question, "Did you hold 2 it," only the Chairman can call for holding, but I don't 3 recall any study on the issue. 4 Q. Okay. Thank you for the clarification. I'll 5 rephrase. 6 Do you remember being part of a hearing on a 7 committee interim charge that addressed voter ID issues? 8 A. No. 9 (Exhibit 193 marked.) 10 Q. (BY MR. FISHER) So, I'll hand you what's been 11 marked as Exhibit 193. And if you would take a look, 12 please, at the top, you'll see the notation Senate 13 Committee on State Affairs, Tuesday, April 18, 2006, 14 8:00 a.m., Senate Chamber. "Pursuant to a notice posted 15 in accordance with Senate Rule 11.18, a public hearing 16 of the Senate Committee on State Affairs was held on 17 Tuesday, April 18, 2006 in the Senate Chamber at Austin, 18 Texas." Members present, do you see your name there 19 listed? 20 A. Yes, I do. 21 Q. And if you would, I can make it a little easier. 22 We can turn to the second page, which is on the back. 23 And you'll see, "At 10:42 a.m. the Chair recessed the 24 committee until upon adjournment of the full Senate. 25 The committee reconvened at 12:10 p.m. and took</p>	<p style="text-align: center;">131</p> <p>1 that would indicate that this is an interim committee, 2 as specified in the minutes of the committee. 3 Q. So, if you're -- and let's just get the logistics 4 straight, and you've mentioned this earlier. You, as a 5 Texas State Senator, are part-time essentially, correct? 6 A. Uh-huh. 7 Q. So, between sessions, you go back home; is that 8 right? 9 A. That's correct. 10 Q. So, in April, 2006, you would have been back in 11 Victoria, Texas; is that right? 12 A. For the most part, yes. 13 Q. So, if a hearing like this is convened on 14 April 18th, 2006, and in 2006, you are back in Victoria, 15 Texas, do you have to take a trip to Austin to be a part 16 of this hearing? 17 A. Yes, you do. 18 Q. And so, the members that are present here, these 19 are all members that have traveled back from wherever it 20 is that they are located to be part of this hearing on 21 the interim charge; is that right? 22 A. That's correct. 23 Q. And where would an interim charge come from? So, 24 who gives the interim charge -- generally, who gives an 25 interim charge to a committee?</p>
<p style="text-align: center;">130</p> <p>1 testimony on Committee Interim Charge #3." 2 And if you would, go ahead and read Committee 3 Interim Charge #3 for me. 4 A. "Study and make recommendations on how election 5 officials could verify the identity of a voter without 6 hindering a person's right to vote. Include an analysis 7 of the extent to which individuals are casting multiple 8 votes because of any lack of voter identification 9 verification. Make recommendations on how the State 10 could improve its vote by mail system to ensure the 11 authenticity of those ballots." 12 Q. And, Senator, we did touch on this very, very 13 briefly in the beginning but could you please describe 14 what a committee interim charge is, how this Interim 15 Charge #3 in this exhibit would have come to the 16 attention of the State Affairs Committee? 17 A. When the legislature has completed its regular 18 session business, after the conclusion of the 140 days, 19 then the Lieutenant Governor traditionally issues out 20 interim charges of various subject matters to the 21 various committees in the Senate for them to take up and 22 consider. 23 One of the things I first looked at on this 24 letter was the date. '06, that's an even year. So, I 25 knew they weren't -- we weren't in session. And so,</p>	<p style="text-align: center;">132</p> <p>1 A. Traditionally, any member may request or any 2 interest may request that the Legislature take up as an 3 interim charge. 4 Interim charges usually fall in two categories. 5 You have passed a bill in the previous session and you 6 want the committee to take a further look to see do we 7 need to fine tune this in the next session, is it 8 working, was the intent realized in the language of the 9 bill, recognizing the fact that any piece of legislation 10 is a statement of -- or establishment of policy without 11 regards to logistics, sometimes the logistics don't 12 match up. 13 And so, interim committees take a look and see, 14 okay, is this working or do we need to do some tweaking 15 in the next regular session. 16 The other category that they fall in is that 17 someone has brought an issue that represents such a 18 change in the way that Texans carry out their lives and 19 businesses and whatnot that the Lieutenant Governor or 20 at somebody's request will agree and say, "Yeah, let's 21 take a look at that. We'll give you -- instead of 22 having just a few minutes in a committee to consider the 23 issue that didn't pass, now we've got 18 months to take 24 a look at it and see what's happened or see if this is 25 something we really need to do."</p>

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1 So, in those two instances, usually they result
2 in an interim charge, which upon completion of the
3 study, if you will -- because that's all -- there can be
4 no official action taken by an interim committee. They
5 do produce at the end a report that takes each charge
6 and issues the findings and recommendations of the
7 charge so that at the next session of the Legislature,
8 the proponents can take that report and find things in
9 the report that -- not justifies but strengthens their
10 position or the opponents can also do the same as well.
11 You're not making a decision for or against. You're
12 trying to get down into the weeds, as we say, on a
13 particular issue.

14 Q. Okay. Do you recall the interim charge
15 referenced in this exhibit?

16 A. No.

17 Q. So, you couldn't characterize whether this was --
18 and you mentioned two categories, tweaking or, for major
19 issues, considering issues further at the behest of the
20 Lieutenant Governor. You wouldn't be able to say
21 whether this was in that first category or in that
22 second category; is that correct?

23 A. No, I wouldn't. It's strictly up to the
24 Lieutenant Governor to decide what goes on there.

25 Q. And you can't tell by looking at this whether it

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1 was broached by a member of the committee or by the
2 Lieutenant Governor; is that right?

3 A. Not by what this says.

4 Q. And you mentioned producing a report. Do you
5 know if a report was produced with regard to Committee
6 Interim Charge #3?

7 A. There should have been.

8 Q. Okay.

9 A. Every interim charge, there should be a report on
10 that charge.

11 Q. And do you recall the testimony given on this
12 charge? It mentions that there was testimony given.

13 A. I don't recall. And let me kind of explain. At
14 any point during a hearing, if you show up, you get
15 counted as present. That doesn't mean that you were
16 there for the entire time or for every testimony and
17 everything else.

18 I was looking at the one before that, the Kelo
19 versus City of New London decision.

20 Q. Correct.

21 A. I was very interested in it from a natural
22 resources perspective, and I wanted to see, also
23 representing the coast, that we had a similar thing to
24 Kelo on the coast of Texas that I was there for. I do
25 see that.

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1 Q. So, given you remember that interim charge, do
2 you know if a report -- do you know for sure if a report
3 was produced on that interim charge --

4 A. Yes.

5 Q. -- Kelo versus New London?

6 A. Right.

7 Q. And is that something that you looked at, that
8 report?

9 A. Right.

10 Q. And did you consider that as you moved forward
11 with any potential legislation about Kelo or issues
12 regarding Kelo?

13 MR. BRISSENDEN: I'm going to have to
14 instruct you not to answer the question based on
15 privilege as that delves into opinions, recommendations
16 and thought processes as to what you did and did not
17 consider as to that particular piece of legislation.
18 And the Court has instructed that that's already -- or
19 that is privileged. Instruct you not to answer.

20 A. Okay. On the advice of counsel, I won't answer
21 that question.

22 Q. (BY MR. FISHER) Do you consider reports issued
23 based upon committee interim charges -- did you consider
24 them just as a general matter important in how you would
25 address things during the next legislative session?

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1 MR. BRISSENDEN: If you can answer that
2 question without relying upon your experience as to
3 specific pieces of legislation, you may do so but to the
4 extent that that requires you to draw upon your
5 experience in connection with your work on legislation,
6 then I instruct you not to answer.

7 A. Okay. Generally, if it was an issue that I was
8 either involved in -- then I would find some value.
9 Otherwise, I wouldn't pay any attention. I would hope
10 they get wrapped in bright paper so I wouldn't trip over
11 them.

12 Q. (BY MR. FISHER) I haven't heard that one before.

13 A. It's a common saying that we use up there.

14 Q. All right. So, you've said you don't recall and
15 don't even know if you were present during the hearing
16 on Committee Interim Charge #3, correct?

17 A. I can't remember.

18 Q. And you don't recall if you had any
19 communications with other Legislators about Committee
20 Interim Charge #3?

21 A. I don't recall.

22 Q. Do you recall if you had any communications with
23 the Governor's Office concerning Committee Interim
24 Charge #3?

25 MR. BRISSENDEN: And I'm going to at this

<p style="text-align: center;">137</p> <p>1 time invoke the privilege and instruct you not to answer</p> <p>2 as to communications that you had in regards to</p> <p>3 legislation.</p> <p>4 A. Okay. On the advice of counsel, I won't respond</p> <p>5 to that one or answer that question.</p> <p>6 Q. (BY MR. FISHER) And I'll rephrase just as a yes</p> <p>7 or no question.</p> <p>8 Did you have any communications concerning</p> <p>9 Committee Interim Charge #3 with anyone from the</p> <p>10 Governor's Office?</p> <p>11 MR. BRISSENDEN: And I'm going to instruct</p> <p>12 the same instruction.</p> <p>13 A. I'll follow my attorney's advice.</p> <p>14 Q. (BY MR. FISHER) And if you -- if there was a</p> <p>15 report produced based on Committee Interim Charge #3,</p> <p>16 would you have run across that report in your search for</p> <p>17 documents responsive to today's Amended Notice of</p> <p>18 Deposition?</p> <p>19 A. No. No, I wouldn't have those in my possession.</p> <p>20 Q. And where would those documents be? Where would</p> <p>21 that report be?</p> <p>22 A. It's either still in the Senate or it's in the</p> <p>23 Legislative Library. Possibly online. I don't know</p> <p>24 where they put those.</p> <p>25 Q. Let's go ahead and put that aside.</p>	<p style="text-align: center;">139</p> <p>1 Q. Okay. Well, let's consider the additional</p> <p>2 information provided in Exhibit -- what will be marked</p> <p>3 as Exhibit 194 as well.</p> <p>4 (Exhibit 194 marked.)</p> <p>5 Q. (BY MR. FISHER) And that states in the upper</p> <p>6 left-hand corner Texas Legislature Online History HB</p> <p>7 218?</p> <p>8 A. Correct.</p> <p>9 Q. In looking at Exhibit 194 and Exhibit 28, does</p> <p>10 that refresh your recollection at all of the bill that</p> <p>11 was introduced in 2007 concerning voter ID?</p> <p>12 A. Like I say, I don't remember this one at all.</p> <p>13 Q. Do you recall, as the Legislative Director, voter</p> <p>14 ID being one of the Governor's legislative priorities --</p> <p>15 publicly stated legislative priorities in 2007?</p> <p>16 A. No, I don't remember that.</p> <p>17 Q. And do you remember it being any part of the</p> <p>18 Governor's legislative agenda in 2007?</p> <p>19 A. No.</p> <p>20 Q. And do you know whether you or your staff had any</p> <p>21 communications with Legislators in 2007 regarding voter</p> <p>22 ID?</p> <p>23 A. I didn't. Whether the two gentlemen that are</p> <p>24 different than the two that I mentioned earlier did but</p> <p>25 for me personally, I had no communication with any</p>
<p style="text-align: center;">138</p> <p>1 And in 2007 -- and forgive me if -- I just don't</p> <p>2 remember -- did you serve the full session in 2007? Is</p> <p>3 that correct?</p> <p>4 A. I was in the Governor's Office in 2007.</p> <p>5 Q. So, you left the Senate in 2007 in January?</p> <p>6 A. January 4th, 2007. I began with Governor Perry</p> <p>7 January 7th, three days later.</p> <p>8 Q. And the session would have started on?</p> <p>9 A. The next Tuesday, whichever -- let's see. Let's</p> <p>10 see. Whatever the --</p> <p>11 Q. Fair enough.</p> <p>12 A. The second Tuesday in January, whatever that date</p> <p>13 was.</p> <p>14 Q. Fair enough. Do you recall in your capacity as</p> <p>15 Legislative Director that there was a photo ID bill</p> <p>16 introduced in that legislative session in 2007?</p> <p>17 A. I don't. The earliest one I remember is '09.</p> <p>18 Q. Okay. I'm going to hand you what's previously</p> <p>19 been marked as Exhibit 28. And on Exhibit 28, you'll</p> <p>20 notice it's a 13-page document. It's got the notation</p> <p>21 HB 218 in the upper right-hand corner.</p> <p>22 A. Yes.</p> <p>23 Q. And does that look familiar to you at all, HB</p> <p>24 218?</p> <p>25 A. No.</p>	<p style="text-align: center;">140</p> <p>1 member.</p> <p>2 Q. And you mentioned that you're not familiar with</p> <p>3 HB 218. If we could turn -- I'll direct your attention</p> <p>4 again, similar to the last bill we looked at, to Page 9.</p> <p>5 And this is Section 63.0101.</p> <p>6 A. Got it.</p> <p>7 Q. Documentation of Proof of Identification, if you</p> <p>8 can go ahead and take a look at that. And that runs</p> <p>9 until -- again, until Page 11. If you could, go ahead</p> <p>10 and take a look at those forms of ID.</p> <p>11 A. Okay.</p> <p>12 Q. And so, taking a look at that, do you notice</p> <p>13 that, similar to HB 1706, it does provide for nonphoto</p> <p>14 ID?</p> <p>15 A. Yes.</p> <p>16 Q. And if you look at A 1 on Page 9, do you see the</p> <p>17 expiration for driver's license?</p> <p>18 A. Yes. It's similar to the previous reviewed</p> <p>19 document.</p> <p>20 Q. And if you look at number 3, do you see a valid</p> <p>21 employee identification card that contains the person's</p> <p>22 photograph; is that correct?</p> <p>23 A. That's correct.</p> <p>24 Q. And if you look at number 6, do you see a student</p> <p>25 identification card issued by a public or private</p>

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1 institution of higher education?

2 A. That's correct.

3 Q. And if you look at number 8, do you see a valid
4 identification card that contains the person's
5 photograph and is issued by, A, an agency or institution
6 of the federal government or, B, an agency, institution
7 or political subdivision of the state?

8 A. I see that.

9 Q. And so, does it appear to you, just looking at
10 the two requirements, that HB 218 is similar or
11 dissimilar to HB 1706 from 2005?

12 A. It's -- I would have to say those two choices, it
13 is similar. There is a change, it looks like. In that
14 one, I didn't see military ID but it's replaced by an
15 institution of the federal government and I think that
16 was what they -- I think the other one had military ID.

17 Q. At any time, if you want to look at the previous
18 exhibit, we can do that as well.

19 If you look at Page 9, number 2, I think you'll
20 see United States military ID.

21 A. Okay. Then I'll have to say similar.

22 Q. But to the extent you want to look at a previous
23 exhibit, let me know.

24 A. Okay.

25 Q. You've stated you don't recall HB 218. Do you

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1 know if anyone in the Governor's Office played any role
2 in the development of HB 218?

3 A. I don't recall.

4 Q. Are you aware of any communications concerning
5 the development of HB 218?

6 A. No.

7 Q. Do you recall monitoring -- and you've mentioned
8 that monitoring the course of bills is something that
9 you do as the Legislative Director. Do you recall
10 monitoring the consideration of HB 218 in the House?

11 A. If it was filed, there would have been somebody
12 assigned to it to monitor it but I don't know if that
13 was Schofield at the time or who was handling those in
14 '07.

15 Q. Do you recall monitoring consideration of HB 218
16 in the Senate? And if you look at what we marked as
17 Exhibit 194, I think you'll see that it was considered
18 in the Senate.

19 A. Yes.

20 Q. Do you recall doing that monitoring at all?

21 A. No. No.

22 Q. Do you know if -- and you mentioned Mr.
23 Schofield. Do you know if a policy analysis was
24 performed by Mr. Schofield on HB 218?

25 A. I don't know because I didn't see it, but

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1 following our protocol, there would have been something
2 but I can't say with certainty that yeah, I know for
3 sure it was done. I'm just saying our protocol at the
4 time hadn't changed. Every bill assigned to them, they
5 have to do an analysis.

6 Q. Are you aware or do you remember any
7 communications within the Governor's Office concerning
8 HB 218?

9 A. I don't recall it ever even coming up.

10 Q. Do you recall any conversations originating from
11 outside of the Governor's Office concerning HB 218, for
12 instance, constituent communications to the Governor
13 concerning HB 218?

14 A. I wouldn't know that information.

15 Q. Who would know that? Would that be the
16 Constituents Communications Director that you mentioned
17 earlier? And I'm sorry, his name, I forgot.

18 A. Greg Davidson.

19 Q. And I got that name wrong earlier. I apologize
20 for that.

21 A. That's okay.

22 Q. If you look at what's been marked as
23 Exhibit 194 -- and you were very helpful in walking
24 through HB 1706. I wonder if I could ask you to do the
25 same here.

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1 A. Okay.

2 Q. After the House passed HB 218, was it considered
3 by the Senate?

4 A. Received in the House on 4-25. Had its first
5 reading on 4-26. Referred to State Affairs. It was
6 scheduled for a public hearing on the 30th. They had
7 the public hearing. Testimony was taken.

8 There was a substitute apparently adopted and
9 reported out of the committee after the substitute.
10 Substitute means that if a bill comes either as an
11 original or from the House in this case, if the Senate
12 makes any changes, that represents a substitute, and so,
13 then it is voted on as substituted or as amended, you
14 can say that as well, but as substituted.

15 So, it indicates that there was a change made in
16 the Senate to the original bill as received from the
17 House and there -- on 5-1, May 1st, committee report
18 printed and distributed, and then it was placed on the
19 Senate Intent Calendar.

20 Q. And just backing up for a second, Senator -- and
21 I do appreciate you walking through this -- I do see --
22 and this is prior to what you just said -- that it was
23 referred to the State Affairs Committee on 4-26-2007; is
24 that correct?

25 A. That's correct.

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1 Q. And if you could -- and I thank you for the
2 explanation of a substitution. Let me ask you, based on
3 the interim charge in 2006, are you aware that any
4 change -- that substitution was made on the basis of
5 Committee Interim Charge #3 from April, 2006?

6 A. I don't have any information for that.

7 Q. So, you mentioned placed on the Intent Calendar.
8 What is the Intent Calendar, if I can ask you what that
9 is, please?

10 A. Okay. In the Senate, to bring a bill up out of
11 its regular order, what that refers to, this being --
12 has a number 218, that means before you hear 218, you
13 have to have heard 217, '16, '15, '14, all the way back
14 down to House Bill 1 before you can take this up.

15 The way -- the work around of that is what's
16 referred to as the two-thirds rule. So, any bill that
17 comes to the Senate floor that's out of the regular
18 order of business, you have to have two-thirds or 21
19 votes.

20 If I'm the author of a bill and I put that bill
21 on the Intent Calendar, that serves notice to all of my
22 colleagues and to anyone in the general public that I
23 intend to ask to bring this bill up out of its regular
24 order, get my 21 votes so that we can take it up for
25 floor debate or second reading, and that's what the

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1 Intent Calendar serves.

2 Q. And you mentioned the two-thirds rule, what's
3 your understanding about the purpose of that rule?

4 A. The rule is because the rules -- because of the
5 regular order of business, it's a methodology by which
6 you can take up bills that are not sequentially in
7 order. And to do that under Senate rules, you have to
8 have two-thirds of the members agree to let you do that.
9 That's what the two-thirds rule is.

10 Q. Let me ask you why two-thirds, why not
11 three-fifths or some other number?

12 A. That's just a number that's just kind of always
13 been there.

14 Q. Do you know how long it's been there, how long
15 it's been in place?

16 A. I went there in '87 and it was there. So, it's
17 always kind of been there.

18 Q. Is it fair to say it's been in place for a while?

19 A. That's absolutely fair. You see, over in the
20 House, they have a separate committee. It's called a
21 Calendars Committee. Another way for the laymen to look
22 at it, they're the agenda setting. They determine when
23 bills will come up to the House floor.

24 In the Senate, the entire Senate acts as the
25 Calendars Committee. That's why we have the two-thirds

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1 that are bringing it up. So, we all look at all of the
2 bills that are eligible. So, we can decide as a body,
3 all 31, that if two-thirds of our body agrees, we'll let
4 you take a run, as we call it.

5 Q. And two-thirds seems like a pretty high number.
6 Would you agree that that requires a general consensus
7 on bills before they are brought up before the Senate?

8 A. Pretty much.

9 MR. BRISSENDEN: Objection. Vague.

10 THE WITNESS: Oh, I'm sorry.

11 Q. (BY MR. FISHER) You can still answer, Senator.

12 A. What was the question?

13 Q. The question was that two-thirds seems like a
14 pretty high number. Would you agree that a two-thirds
15 vote to bring a bill before the Senate engenders a
16 certain general consensus on a bill prior to it being
17 voted on?

18 MR. BRISSENDEN: Objection. Vague.

19 THE WITNESS: Do what?

20 MR. BRISSENDEN: Go ahead. You may answer.

21 A. That would indicate that you've got support.
22 We've had -- there was one Lieutenant Governor that
23 wouldn't give you -- let you bring your bill up unless
24 you brought 21 names to him, Governor Hobby. You had to
25 show him that you had 21 names.

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1 That doesn't mean they are going to vote for it
2 if something -- you bring it up and somebody puts an
3 amendment on it and everybody peels off of it.

4 Q. (BY MR. FISHER) Would you agree or disagree that
5 the vast majority of bills in the Texas State Senate are
6 brought up by operation of the two-thirds rule?

7 MR. BRISSENDEN: Objection. Vague.

8 To the extent you can answer that question
9 relying upon general information that's a matter of
10 public record, you may do so.

11 To the extent you have information that you
12 are relying upon based upon your experience in
13 connection with your work on specific legislation that
14 you've been involved with, I'd instruct you not to
15 answer.

16 A. Okay. Generally, that is but there have been
17 exceptions.

18 Q. (BY MR. FISHER) And do you remember what those
19 exceptions were?

20 MR. BRISSENDEN: Same instruction.

21 A. I'll follow my attorney's advice and not answer
22 that one under privilege.

23 Q. (BY MR. FISHER) Okay. And so, based upon the
24 public record, do you remember examples of -- public
25 examples where the two-thirds rule was not followed when

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1 a bill was brought before the Senate floor?
 2 A. Governor Hobby '91 redistricting. Governor
 3 Bullock. I don't remember the thing. I just remember
 4 we had one under Governor Bullock, and he cited Governor
 5 Hobby. And then Governor Dewhurst on Congressional
 6 redistricting in '03 or '01, whenever it was, citing
 7 both Governor Bullock and Governor Hobby.
 8 Q. So, about how many bills would you say that you
 9 vote on per session on average? And I know you said the
 10 number earlier was 6,500 to 7,000 but I know all of
 11 those are not voted on. How many bills would you vote
 12 on as a Senator during each session?
 13 A. Can I ask for a clarification? And I'll explain
 14 for the clarification.
 15 Q. Sure.
 16 A. As a member of the Senate, you could have say
 17 Bill A. If you're on a committee, you're voting for or
 18 against Bill A. If it then comes to the floor, you're
 19 voting again on -- for or against Bill A. So, is your
 20 question about roughly how many votes are cast on the
 21 floor or in total committee and --
 22 Q. Let me clarify. I'm talking about votes that are
 23 taken on the floor.
 24 A. Okay.
 25 Q. About average, if you had to guess, how many, on

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1 average, would you vote on during a session?
 2 MR. BRISSENDEN: If you can answer, I don't
 3 want you guessing.
 4 A. On the advice of my attorney, it would be a
 5 guess, so, I won't answer that.
 6 Q. (BY MR. FISHER) Would you say it's more than a
 7 hundred bills?
 8 A. Yes.
 9 Q. And so, you've given -- and you've served on the
 10 Senate for over 20 years; is that correct?
 11 A. Yes.
 12 Q. So, was that about ten sessions; is that correct?
 13 A. Ten regular sessions and a myriad of specials.
 14 Q. So, during those ten regular sessions, about a
 15 hundred bills a session or over a hundred bills a
 16 session, we can safely assume more than a thousand
 17 bills; is that correct?
 18 A. Oh, yes.
 19 Q. And so, you've given me -- was it three examples
 20 of bills where the two-thirds rule was not followed; is
 21 that right? Governor Hobby, Governor Bullock and
 22 Lieutenant Governor Dewhurst; is that correct?
 23 A. That I can remember.
 24 Q. So, would you say that the vast majority of bills
 25 that were brought to the floor during your time in the

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1 Senate were voted on by two-thirds of the Senators to
 2 bring the bill to the floor before being voted on by --
 3 you know, an up or down vote by the Senate?
 4 MR. BRISSENDEN: Objection. Vague.
 5 THE WITNESS: I'm sorry?
 6 MR. BRISSENDEN: Go ahead. You may answer.
 7 A. Yes.
 8 Q. (BY MR. FISHER) Could you tell me just based
 9 on -- we can go back to Exhibit 194. Can you tell me
 10 what happened to HB 218? And I think we've gotten up to
 11 placed on the Intent Calendar, which is on the first
 12 page.
 13 A. Yes, placed on the Intent Calendar.
 14 Q. Can you tell me what happened?
 15 A. Co-sponsor authorized, that means once I get it
 16 to the floor, another way to try to indicate support is
 17 you sign a card allowing other members of the Senate to
 18 co-author the bill. The author has to give permission
 19 for -- say if you wanted to sign on, you liked the bill,
 20 you wanted to be a co-author, I would have to give you
 21 permission. So, that's what that indicates,
 22 co-sponsorship was authorized.
 23 Then the two-thirds rule, see rules suspended,
 24 regular order of business occurred on the 15th of May.
 25 They had a record vote to do that, to suspend the rules.

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1 Then it's read the second time. In other words,
 2 the Secretary of the Senate again gets up and she reads
 3 the caption. In this instance she would say, "House
 4 Bill 218 relating to requiring a voter to present proof
 5 of identification."
 6 There is considerable debate between when the
 7 author brings it up, suspending the regular order of
 8 business, it's read the second time, and then after the
 9 debate, you request a vote.
 10 And at that point, according to this, a motion to
 11 suspend the regular order fails. You have another vote
 12 there, and that failed on the 15th by record vote.
 13 And they tried to bring it back to life, it looks
 14 like there, because they offered another opportunity for
 15 more people to sign onto it.
 16 Q. Okay.
 17 A. And that was the last that happened. In other
 18 words, once it failed on second reading to go to third
 19 reading -- and to go to third reading, it takes
 20 two-thirds because you're suspending the Constitution,
 21 and that's why that two-thirds is there.
 22 So, it looks like it didn't get the required 21
 23 votes or two-thirds. It's two-thirds of the members
 24 present and voting. So, it doesn't have to be 21. It
 25 can be a combination. You take however many happen to

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1 be in the room, two-thirds of those that are present and
2 voting.

3 Without seeing the actual vote, that's what
4 happened to it. It died on the second reading -- or
5 movement to the third reading.

6 Q. I think we can discuss a little bit more the
7 issue with quorum that you just mentioned in the context
8 of the next exhibit.

9 A. Okay.

10 Q. And that's been previously marked as Exhibit 45.
11 And Exhibit 45 says Declaration of Carlos Uresti. And
12 you'll notice, Senator, if you turn to the last page,
13 you'll see his signature and the date of April 9th,
14 2012. You have to flip it over there.

15 A. Okay.

16 Q. I'll let you take a look briefly. Have you seen
17 this document before?

18 A. No. No, I have not.

19 Q. Who is Carlos Uresti?

20 A. Carlos Uresti is a Senator from the home county
21 of San Antonio, Texas.

22 Q. And did you serve with Senator Uresti?

23 A. I did not in the Senate. He came to the Senate
24 after I had left. I think his first session was '07.

25 Q. I'm going to go ahead and direct your attention

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1 to paragraphs 6 and 7, if you would take a look at
2 those.

3 A. Okay.

4 Q. And so, we're discussing the context of HB 218,
5 the legislative history of HB 218, and you mentioned
6 that it passed a two-thirds vote and then failed a
7 two-thirds vote.

8 And what I wanted to ask you is if paragraph 6
9 and 7 concerning HB 218 provide you with any knowledge
10 about what happened during that vote?

11 You can actually go ahead and read 8 and 9 as
12 well.

13 A. Okay.

14 Q. Do you recall the events described in these
15 paragraphs?

16 A. No. No, I wasn't on the floor.

17 Q. As a matter of public knowledge, public
18 information, do you recall the events described in
19 paragraphs 6, 7, 8 and 9?

20 A. No. No.

21 Q. If you were to compare paragraphs 6, 7, 8 and 9
22 and what's described there, does that seem consistent
23 with Exhibit 194, which was the history you just read me
24 where you said that the rules were suspended and the
25 motion to suspend the rules later failed?

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1 A. Right.

2 Q. Does that seem consistent with the exhibit?

3 A. Right. Like I say, the two-thirds is not a firm

4 21. It's two-thirds of the members present and voting.

5 So, if you had 29 members, then two-thirds of 29, you
6 would need 19 votes --

7 Q. And during your time in the Senate --

8 A. -- or 20 votes, whatever two-thirds is.

9 Q. And during your time in the Senate, do you recall
10 votes being taken when Senators were not on the floor in
11 order to establish a quorum, such as what's described in
12 paragraphs 6, 7, 8 and 9?

13 A. Yes.

14 Q. And so, you recall instances where -- and I'm not
15 talking about Senators just not being present because
16 they are not there --

17 A. Right.

18 Q. -- but where Senators have checked in and they
19 are just not on the floor --

20 A. Right.

21 Q. -- where votes have been taken to establish a
22 quorum in their absence?

23 A. Right.

24 Q. Do you recall instances like that happening?

25 A. Yes.

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1 Q. Can you tell me about those instances?

2 A. When the Senate convenes, you have roll call.
3 And, theoretically, you can't continue unless there is a
4 quorum. A quorum is 16 votes.

5 So, it's very possible, especially this time -- I
6 believe the date on here we were reading, that's the
7 last part of the session. It's not unusual at all for
8 you to be there for roll call, be counted as present at
9 that time -- point in time and then you've got a bill
10 that you're working on -- this was a House bill. You're
11 working on a Senate bill, and you're over in the House
12 talking to House members about trying to get your bill
13 out of committee.

14 This is the last part of the session, you're in
15 that final two or three weeks before a bill can actually
16 get out of either House. So, it's not unusual for them
17 to be off the floor for a lot of reasons. They could be
18 in the bathroom. They could be --

19 And what can happen is any member of the Senate
20 at any time, before a vote is actually called for, they
21 can call for a quorum. And then they would have to
22 stop, recall the roll to establish how many people are
23 present and voting on the floor. And at that point,
24 that number can be different than what happened at the
25 morning's roll call. So, yes, this would happen.

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1 The significance of, "I was sick with the flu"
2 statement, several years ago another member of the
3 Senate from San Antonio, Bexar County, was going through
4 dialysis.

5 Q. Is that Senator Gallegos, Senator?

6 A. No. He died. Senator Gallegos was another one
7 that was -- he had a liver transplant.

8 Senator Greg Luna was going through dialysis, and
9 we delayed action on a bill at his request until his
10 three-hour dialysis treatment. And we did that as a
11 courtesy. Everybody in the Senate agreed and let him
12 get there so that he could vote on a particular bill.
13 As it was, they didn't need his vote but he wanted to be
14 on record as voting for this -- it was a children's
15 education bill that he wanted to be sure and have his
16 name on there. Otherwise, it would have shown in the
17 record that he was not present for the vote.

18 So, that happens at times. They will give each
19 other a courtesy to do that but there's been many
20 instances when it wasn't that firm 21 but it was the
21 firm two-thirds.

22 And our rule is -- the Senate's rule is very
23 specific, it's two-thirds of the members present and
24 voting.

25 Q. Let's read paragraphs 8 and 9 together.

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1 A. All right.

2 Q. And I mean together as in reading them in
3 context. "When I arrived at the Senate" -- and this is
4 Senator Uresti talking -- "Senator John Whitmire, an
5 opponent of HB 218, told me that he was counted absent
6 from the vote even though he had checked in on the
7 Senate floor and had only momentarily stepped out, prior
8 to the vote. It is highly unusual, and a deviation of
9 Senate procedures, to consider a Senator absent after he
10 or she has checked in on the Senate floor. Although HB
11 218 passed on its first vote prior to my arrival,
12 opponents of the bill forced a second vote. Because HB
13 218 did not receive the support of two-thirds of Senate
14 members, HB 218 was defeated."

15 A. Right.

16 Q. Is that consistent with the usual practice of the
17 Texas State Senate, in your opinion?

18 MR. BRISSENDEN: Let me instruct you that to
19 the extent you can answer that question based upon
20 public record and based upon your general experience,
21 you may answer.

22 To the extent that this question requires
23 you to rely upon statements that are contained in this
24 exhibit that you've already testified to twice that
25 you're not familiar with and requires you to rely upon

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1 your thoughts, opinions, your impressions and analysis
2 in connection with your work on this particular piece of
3 legislation and offer an opinion about this procedure,
4 I'd instruct you not to answer.

5 Q. (BY MR. FISHER) And, Senator, let me ask you,
6 did you work on this piece of legislation?

7 A. No.

8 Q. I thought that was your previous testimony.

9 A. This was in '07?

10 Q. Correct.

11 A. No. I was in the Governor's Office in '07.

12 Q. Correct.

13 A. I didn't work on this one. My first was '09.

14 MR. FISHER: Can you read back the last
15 question, please?

16 (Whereupon, the requested testimony was read back
17 as follows:

18 QUESTION: Is that consistent with the usual
19 practice of the Texas State Senate, in your
20 opinion?)

21 A. And the answer was yes. As a matter of public
22 record as stated in here, what Senator Whitmire said was
23 indicated on here, as a matter of public record.
24 If he was out, they didn't need the firm 21.
25 They still needed two-thirds. So, if a Senator -- in

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1 this case 2 were missing if you count Whitmire and
2 Uresti, then it's two-thirds of 29, which they wouldn't
3 have needed 21. That would have been -- quick math.
4 They would have needed 19 votes to bring up the bill.
5 So, that was here when the rules were suspended there on
6 5-15, Journal Page 2063.

7 Then when -- in 8 when Senator Whitmire was back
8 on the floor and Senator Uresti had got there, then they
9 needed 21 and they didn't have that.

10 Q. (BY MR. FISHER) And earlier you mentioned that
11 accommodations are sometimes made, you mentioned someone
12 on dialysis, are you aware of other instances where
13 accommodations were not made for Senators that were sick
14 that were not on the floor?

15 A. I don't know of any.

16 Q. Do you remember at this time -- so, the time
17 period we're discussing is May, 2007. If you look at
18 the Legislative History, I think you'll see that.

19 A. Right.

20 Q. And do you remember at that time the Lieutenant
21 Governor issued a letter concerning the votes on HB 218?
22 I think we've established there were two votes. Do you
23 remember the Lieutenant Governor issuing a letter on
24 that?

25 A. No.

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1 Q. Do you recall reading any information in the
2 newspaper, any public information about the votes that
3 were taken on HB 218?

4 A. I don't remember that. I can't remember what I
5 read in the newspaper yesterday. And I'm not trying to
6 be facetious with you. No, I don't remember reading
7 anything about it.

8 Q. Senator, we went through in detail your knowledge
9 of the Senate, your long-time service in the Senate, as
10 well as the fact that you had just taken a job with
11 Governor Perry at the time; is that correct?

12 A. During that session, yes.

13 Q. And so, about four months earlier, you had taken
14 a job?

15 A. Yes.

16 Q. You can't recall at this time whether -- and do
17 you agree that this situation would have been something
18 that's newsworthy, the fact that votes were being taken
19 with Senators that were possibly not in the chamber, you
20 know, is this something that you expect would make an
21 impact on the public?

22 MR. BRISSENDEN: Objection. Vague. Calls
23 for speculation.

24 A. You'll have to be more -- you're -- I agree with
25 my attorney that the question was a little vague.

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1 Q. (BY MR. FISHER) Well, as the Legislative
2 Director for the Governor and someone who had just
3 served for over 20 years in the Senate, is it unusual
4 that a situation like this is something that would not
5 have an impact on you so that you remember it --

6 A. No.

7 Q. -- you know, five years later?

8 A. No.

9 Q. Okay. And we've talked about 2009. You can put
10 those exhibits to side. We've talked about 2009 a few
11 times.

12 A. Yes.

13 Q. You've mentioned 2009. So, was a photo
14 identification bill introduced in the Senate in 2009?

15 A. It was either the House or the Senate.

16 Q. I'll go ahead and give you what's been previously
17 marked as Exhibit 29. And you'll notice that Exhibit 29
18 looks like a lot of the other exhibits we've looked at.
19 It's a Bill to Be Entitled an Act, and in the upper
20 right-hand corner it says SB No. 362?

21 A. Yes, sir.

22 Q. And at the same time -- this has been, I think,
23 working efficiently for us. I'll go ahead and give you
24 what was previously marked as Exhibit 163.

25 A. Okay.

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1 Q. In the upper left-hand corner of Exhibit 163,
2 you'll see Texas Legislature Online History, and you'll
3 notice the bill is SB 362.

4 A. Okay.

5 Q. Is that correct?

6 A. That is correct.

7 Q. Okay. And so, is this the bill that was
8 introduced in 2009 that you've mentioned concerning
9 voter ID?

10 A. Yes. Uh-huh.

11 Q. And in your capacity as the Governor's
12 Legislative Director, was voter ID on the Governor's
13 legislative priorities in 2009?

14 A. It was not one of our priority bills.

15 Q. Was any part of the Governor's legislative agenda
16 in 2009 photo ID?

17 A. No.

18 Q. Do you know if the Governor's Office had any --
19 this is either you or your staff -- had any
20 communications with outside groups in 2009 regarding
21 voter ID?

22 A. I did not have any outside communications with
23 anybody.

24 Q. Did anyone on your staff have communications with
25 outside groups concerning voter ID in 2009?

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1 A. I'm sorry, I don't know if they did or not.

2 Q. Are you aware of anyone in the Governor's Office,
3 more broadly, having communications with outside groups
4 in 2009 concerning voter ID?

5 A. I'm not aware of anybody. Nobody ever said
6 anything to me about it.

7 Q. Are you familiar with the provisions of SB 362?

8 A. Generally. I'd have to look through this to
9 refresh myself.

10 Q. I think I can direct you kind of to the similar
11 areas that we've been looking at in the previous bills.
12 If you'll look at Page 5, I think you'll see Section
13 63.0101.

14 A. Okay.

15 Q. And that's under Section 10. So, I'll go ahead
16 and let you take a look at that. And that runs to Page
17 7.

18 A. Right. Got it.

19 Q. And so, what forms of ID would have been
20 allowable under SB 362?

21 And I can ask you more specific questions.

22 Would a valid identification card that contains
23 the person's photograph issued by an agency or
24 institution of the federal government or an agency,
25 institution or political subdivision of this state have

<p style="text-align: center;">165</p> <p>1 been allowed under number 6?</p> <p>2 A. Yes. Number 7.</p> <p>3 Q. Well, it looks like --</p> <p>4 A. Oh, it's 6, yes, you're correct.</p> <p>5 Q. You mentioned there's crossed-outs and</p> <p>6 underlines, and I understand it makes things a little</p> <p>7 confusing at times.</p> <p>8 A. Yes. Right.</p> <p>9 Q. In Section B, do you see there was a provision</p> <p>10 for nonphoto identification as well in Section B?</p> <p>11 A. Yes, I do.</p> <p>12 Q. And if you look at Section A 1, do you see the</p> <p>13 expiration date listed there for a driver's license</p> <p>14 issued by the Department of Public Safety?</p> <p>15 A. I don't see a date but it does have a -- it does</p> <p>16 have a statement about expired or not expired within two</p> <p>17 years.</p> <p>18 Q. Okay.</p> <p>19 A. It's not a date certain. I think we are talking</p> <p>20 about the same thing.</p> <p>21 Q. So, the answer is expired no earlier than two</p> <p>22 years before the date of presentation; is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. Do you notice differences -- and feel free to</p> <p>25 take HB 218 up again but do you notice any differences</p>	<p style="text-align: center;">167</p> <p>1 you're calling for a date, and this says it expired or</p> <p>2 if you're using that synonymous, okay, but -- yeah, I</p> <p>3 agree they are both the same language.</p> <p>4 Q. And do both provide for a valid identification</p> <p>5 card that contains the person's photograph and is issued</p> <p>6 by an agency or institution of the federal government or</p> <p>7 an agency, institution or political subdivision of the</p> <p>8 state?</p> <p>9 A. Yes. 6 in Senate Bill 362, and House Bill 218,</p> <p>10 subsection 8.</p> <p>11 Q. Thank you, Senator.</p> <p>12 And were you or anyone in the Governor's</p> <p>13 Office -- are you aware that anyone was involved in the</p> <p>14 development of SB 362?</p> <p>15 A. I was not involved with it. I don't know if</p> <p>16 anybody else was in our office.</p> <p>17 Q. Are you aware of any communications between</p> <p>18 yourself or your staff with those who were developing SB</p> <p>19 362?</p> <p>20 A. Again, I was not, and I'm not aware of any of the</p> <p>21 staff that was involved with the development of it.</p> <p>22 Q. Are you aware of the source of the legislative</p> <p>23 language in SB 362?</p> <p>24 A. No.</p> <p>25 Q. Are you aware of any communications with</p>
<p style="text-align: center;">166</p> <p>1 between SB 362 and HB 218 as far as allowable forms of</p> <p>2 ID?</p> <p>3 A. I hate to be slow but you've asked me do I see</p> <p>4 any differences rather than a while ago you asked me do</p> <p>5 I see similarities.</p> <p>6 3 is different on 218. It talks about the valid</p> <p>7 employee ID card.</p> <p>8 Q. Okay.</p> <p>9 A. And here 3 is United States citizenship</p> <p>10 certificate.</p> <p>11 Q. Okay. And do you know what a United States</p> <p>12 citizenship certificate is?</p> <p>13 A. I don't have any idea.</p> <p>14 Q. Do you notice that --</p> <p>15 A. Is that a passport?</p> <p>16 Q. Do you notice that --</p> <p>17 A. I don't know.</p> <p>18 Q. -- nonphoto identification is provided for in</p> <p>19 both bills? Is that correct?</p> <p>20 A. Let's see. Yes.</p> <p>21 Q. And with regard to the expiration date listed in</p> <p>22 Sections A 1 of both bills, are those expiration dates</p> <p>23 similar?</p> <p>24 A. The expiration statement but, again, there's no</p> <p>25 date but there's a statement. It may be semantics but</p>	<p style="text-align: center;">168</p> <p>1 Legislators from the Governor's Office concerning what</p> <p>2 forms of ID were included in SB 362?</p> <p>3 A. No.</p> <p>4 Q. Are you aware of any -- are you aware of the</p> <p>5 Governor's Office being aware of any analysis about</p> <p>6 which registered voters did or did not possess one of</p> <p>7 the forms of ID required by SB 362?</p> <p>8 A. No, I'm not aware of that.</p> <p>9 Q. Did you or any members of your staff have</p> <p>10 communications about SB 362 with current or former</p> <p>11 Legislators who had worked on or introduced past photo</p> <p>12 identification bills?</p> <p>13 A. I did.</p> <p>14 Q. And who did you have those conversations with?</p> <p>15 A. Todd Smith in the House. He was the committee</p> <p>16 Chair of the committee that it was going through in the</p> <p>17 House. It had already passed the Senate. My</p> <p>18 conversations were with him and no other member.</p> <p>19 Q. And there was no one else present during those</p> <p>20 conversations; is that correct?</p> <p>21 A. Not that I recall.</p> <p>22 Q. And was that a face-to-face conversation?</p> <p>23 A. It was a face-to-face conversation.</p> <p>24 Q. Are you aware of anyone else in the Governor's</p> <p>25 Office having communications about SB 362 with at that</p>

<p style="text-align: center;">169</p> <p>1 time current or former Legislators who had offered</p> <p>2 previous photo identification bills?</p> <p>3 A. No, I'm not aware of anybody else.</p> <p>4 Q. So, was it just one meeting with Todd Smith; is</p> <p>5 that correct?</p> <p>6 A. Right.</p> <p>7 Q. Are you aware of communications from you or your</p> <p>8 staff with officials or Legislators from other states</p> <p>9 about SB 362?</p> <p>10 A. I had no outside communication about it with</p> <p>11 anybody.</p> <p>12 Q. Did anyone on your staff have outside</p> <p>13 communications?</p> <p>14 A. I don't know.</p> <p>15 Q. Would you know if they did? Is that something</p> <p>16 they would report to you?</p> <p>17 A. No, not necessarily.</p> <p>18 Q. Are you aware of any communications about SB 362</p> <p>19 with outside interest groups from you or your staff in</p> <p>20 the Governor's Office?</p> <p>21 A. I had none with any outside interest groups, and</p> <p>22 I don't know about staff.</p> <p>23 Q. More broadly, anyone in the Governor's Office</p> <p>24 that had outside communications about SB 326 with</p> <p>25 outside interest groups?</p>	<p style="text-align: center;">171</p> <p>1 analysis then --</p> <p>2 A. No.</p> <p>3 Q. -- based on the answer to your last question; is</p> <p>4 that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And we talked a little bit earlier about things</p> <p>7 that would go into that analysis, the underlying facts,</p> <p>8 the documents that Mr. Schofield or someone like him</p> <p>9 would rely upon. Are you aware of you or anyone in your</p> <p>10 staff reviewing the underlying documentation that would</p> <p>11 go into an analysis -- or that went into the analysis of</p> <p>12 SB 362?</p> <p>13 A. I didn't personally review that, and I don't know</p> <p>14 if anybody in the staff did.</p> <p>15 Q. And would that kind of analysis, the underlying</p> <p>16 analysis, underlying bill analysis, would that involve</p> <p>17 legislation from other states? Would it consider things</p> <p>18 that had been done in other states? For instance, in</p> <p>19 this case, photo identification bills from other states?</p> <p>20 MR. BRISSENDEN: I'm going to instruct you</p> <p>21 not to answer. That question delves into privileged</p> <p>22 deliberations and analysis as to what was and was not</p> <p>23 considered in particular in this piece of legislation in</p> <p>24 the Governor's Office, and the Court has considered that</p> <p>25 to be -- I believe in the orders that have come out on</p>
<p style="text-align: center;">170</p> <p>1 A. I wouldn't have known that.</p> <p>2 Q. Are you aware of any communications that you and</p> <p>3 your staff had with groups representing minority voters</p> <p>4 during the consideration of SB 362?</p> <p>5 A. I had no such meetings, and I wouldn't know if</p> <p>6 the staff did. I would doubt it but I don't know if</p> <p>7 they did or not.</p> <p>8 Q. And going back to the communication you had with</p> <p>9 Representative Smith, can you tell me the general nature</p> <p>10 of that conversation?</p> <p>11 MR. BRISSENDEN: I think the witness has</p> <p>12 answered the question that you posed earlier about</p> <p>13 whether or not he had communication regarding the bill.</p> <p>14 Going beyond that and asking the nature of the</p> <p>15 communications would be privileged, and I instruct you</p> <p>16 not to answer.</p> <p>17 A. On the advice of the attorney, I would not answer</p> <p>18 that under privilege.</p> <p>19 Q. (BY MR. FISHER) Do you know if a policy analysis</p> <p>20 was performed on SB 362 at any point? And we talked</p> <p>21 about Mr. Schofield and the job that he does. Are you</p> <p>22 aware of that analysis being conducted?</p> <p>23 A. I've not seen it but, again, protocol dictates</p> <p>24 that one be done.</p> <p>25 Q. And so, you would say that you didn't review the</p>	<p style="text-align: center;">172</p> <p>1 June 5th and June 7th, that would be privileged, the</p> <p>2 legislative privilege. Instruct you not to answer.</p> <p>3 A. Under advice of my attorney, I will not answer</p> <p>4 under privileged communication.</p> <p>5 Q. (BY MR. FISHER) And let me be clear about my</p> <p>6 question. I'm not asking about your time in the</p> <p>7 Legislature. I'm not asking about the work that's been</p> <p>8 done in the Governor's Office. I'm asking about the</p> <p>9 underlying facts that have gone into an analysis that's</p> <p>10 gone by the Governor's staff and I'm asking if those</p> <p>11 underlying facts would take into consideration photo</p> <p>12 identification bills from other states, other</p> <p>13 jurisdictions that have those laws on the books?</p> <p>14 MR. BRISSENDEN: And the Court's order</p> <p>15 issued yesterday, June 7th, specifically addresses work</p> <p>16 that is done by the Governor and his office pertaining</p> <p>17 to legislative acts, legislative functions, the Court</p> <p>18 has found that legislative privilege applies, and I</p> <p>19 would instruct you not to answer the question.</p> <p>20 A. On the advice of the attorney, I won't answer</p> <p>21 under privileged communication.</p> <p>22 Q. (BY MR. FISHER) And so, what was the purpose of</p> <p>23 SB 362, according to your understanding?</p> <p>24 MR. BRISSENDEN: Let me instruct the witness</p> <p>25 that the Court has found that you may answer the</p>

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1 question with regards to the general purpose of a piece
2 of legislation but with regards to your opinions, your
3 analysis, your views and motivations of supporting or
4 not supporting a piece of legislation, I instruct you
5 not to answer.

6 THE WITNESS: Could you read me the question
7 again?

8 (Whereupon, the requested testimony was read back
9 as follows:

10 QUESTION: And so, what was the purpose of SB
11 362, according to your understanding?)

12 A. To enhance the credibility and -- of the vote on
13 a particular election.

14 Q. (BY MR. FISHER) And are you aware there was a
15 problem in Texas with the credibility of the votes in
16 particular elections?

17 MR. BRISSENDEN: To the extent that question
18 requires you to divulge information that you developed
19 in the course of your work as the Director of
20 Legislative Affairs of the Governor's Office in
21 connection with this piece of legislation, I'd instruct
22 you not to answer.

23 To the extent you can rely upon information
24 that would be contained in the public record, you can do
25 so.

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1 A. I don't have any information on the public
2 record. So, on advice of attorney, I won't answer.

3 Q. (BY MR. FISHER) And who are the main opponents
4 to SB 362?

5 A. Define "main opponents."

6 Q. Who are the opponents to SB 362?

7 A. Probably every member of the House and the Senate
8 that were Democrats.

9 Q. And did the Governor -- strike that.

10 Did you or your staff in the Governor's Office
11 have any communications with Legislators who opposed SB
12 362?

13 A. I didn't.

14 Q. Did any members of your staff have communications
15 with Legislators who opposed SB 362?

16 A. I don't know.

17 Q. And, more broadly, just for the sake of the
18 record, anyone in the Governor's Office that you're
19 aware of that had conversations with Legislators who
20 opposed SB 362?

21 A. Not to my knowledge.

22 Q. All right. So, we have Exhibit 163, which I've
23 handed you, and that's the Texas Legislature Online
24 History and based on --

25 A. Okay. Exhibit 163?

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1 Q. It's been previously marked and that's why the
2 numbering is a little different.

3 A. I got it.

4 Q. And if you take a look at that, can you tell me
5 what happened to SB 362?

6 A. Okay. It was prefiled this date 12-15, that's
7 December 15th of '08. Members are allowed to prefile
8 bills within 30 days of a legislative session. And with
9 that date, that tells me that bill was prefiled in the
10 Senate.

11 The Senate convened the second Tuesday of
12 January, and that -- in '09. It had its first reading
13 there on 2-17, and it was referred to the Committee of
14 the Whole.

15 Now, you have standing committees, such as we've
16 talked about before, State Affairs. When you see a
17 notation Committee of the Whole, that means the entire
18 Senate then becomes the committee. And that's been done
19 quite a few times on various issues that are of such
20 statewide import we want to give everybody a bite of the
21 apple, so to speak, at the committee hearing.

22 Again, co-authorization was authorized. It got
23 scheduled for a public hearing, and then they had the
24 public hearing the next month, March the 10th.

25 Testimony was taken. Co-author authorized, that

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1 means somebody has probably signed onto it and had to
2 get that authorization in the record.

3 Q. Senator, if I can just stop you there and ask you
4 a question.

5 A. Okay.

6 Q. You talked about the consideration of the
7 Committee of the Whole?

8 A. Yes.

9 Q. And we talked earlier about bills being referred
10 to specific committees in order to get feedback from the
11 public. Is it your understanding that a bill that's
12 referred to the Committee of the Whole, that same
13 procedure is not followed; is that correct? It doesn't
14 go to an individual committee?

15 A. It doesn't go to an individual committee. It
16 goes to the entire Senate, and they act as the
17 committee.

18 Q. And you said that it has happened before. Can
19 you tell me in what instances you recall other bills
20 being filed with the Committee of the Whole without
21 going to an individual specific committee first?

22 A. Most of the redistricting bills follow that
23 track. I had a particular 50-year state water plan
24 because it was truly for the entire state, wanted to get
25 everybody involved with the formulation of that.

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1 We've had other bills over time. If I had time
2 to look, I could tell you specifics but those are some
3 of the -- it's really an activity -- if you're a Senator
4 not sitting on a particular committee and you have a
5 vested interest in an issue, it gives you that
6 opportunity to lobby on the full committee. So, it's
7 done really as a convenience to ensure that statewide
8 every member of the Senate gets in there and gets to do
9 work on a bill in the committee setting.

10 Q. Is the public heard from in these Committee of
11 the Whole hearings as well?

12 A. Absolutely. Right. They meet on the Senate
13 floor. And at that point, the entire floor is open and
14 people sign up to testify, and they take testimony until
15 the last one gets through.

16 Q. And you started to read the history of the bill
17 somewhat.

18 A. Right.

19 Q. And we had looked in the context of HB 218, and
20 you pointed out to me the point where the bill survived
21 the two-thirds vote to be brought to the floor, and I
22 know we had some more discussion about that but are you
23 able to show me on here any point where SB 362 received
24 a two-thirds vote --

25 A. Yes.

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1 Q. -- from the Senate?

2 A. After the committee process, as you're going down
3 through -- down here closer to the bottom, testimony
4 taken in committee, it was reported out of the committee
5 favorably without amendments. In other words, the bill
6 is filed, was not amended in the committee. Then it was
7 set as a special order. And the next entry there, 3-11
8 over here it looks like Journal Page 464, a record vote
9 was taken.

10 The special order is a process within the
11 committee still. So, that's where it's voted out of
12 committee, and the report was printed and distributed,
13 and there's what we call a 24-hour layout rule. You
14 can't just take a bill and get out of committee and have
15 it up there unless, again, you suspend that rule. Well,
16 they didn't do it with this one. There was no vote
17 taken to do it.

18 So, it -- you see here it came out of committee
19 on the 12th, didn't come before the Senate until the
20 17th, so, there's five days there.

21 It was read for the second time on the 17th.
22 Point of order was called on it. The point of order was
23 overruled.

24 Remarks ordered printed, which any member of the
25 Senate for whatever reason, debate, testimony, whatever,

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1 can ask for the discussion between two members to be
2 printed, and that's what that indicates.

3 There were amendments offered, and the bill was
4 amended. They had a record vote on that amendment.
5 Another amendment offered. You keep going, and then
6 right up here on 3-17, Journal Entry 520, you see that
7 record vote.

8 Q. Okay.

9 A. And then the next entry is passed to engrossment.
10 The record vote, that means that it passed.

11 Q. Senator --

12 A. Now, the two-thirds -- let me go back here. When
13 it says laid before the Senate --

14 Q. Well, Senator, if I could just ask you -- I
15 see -- we could pull out the previous exhibit on HB 218
16 and you pointed out to me exactly where the rules were
17 suspended in the regular order of business, and you
18 described that to me in great detail.

19 A. Right.

20 Q. Can you point anywhere on this history --

21 A. Yeah, laid before the Senate.

22 Q. So, laid before the Senate, that means the same
23 thing?

24 A. Yes.

25 Q. Would it surprise you at all if the two-thirds

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1 rule was set aside for SB 362 and actually was not
2 followed?

3 A. Wouldn't surprise me, no. And as I read this
4 entry laid before the Senate, that wasn't a two-thirds.

5 Q. So, I hand you what's been marked as Exhibit 168,
6 previously marked as Exhibit 168, and you'll see that it
7 says Senate Journal, 81st Legislature, Regular Session,
8 Second Day, Wednesday, January 14, 2009.

9 A. Uh-huh.

10 Q. And would that be the beginning of the
11 legislative session? Is that correct?

12 A. That would have been -- being Wednesday, that
13 would have been the second day.

14 Q. Second day of the legislative session. Thank
15 you, Senator.

16 A. If the 13th was the first day.

17 Q. And if we go to --

18 A. Could have been the week -- well, that's about
19 right. The 13th would have been probably about the
20 second day. Not having a calendar here, I can only
21 guess. Second day means second day of the session.

22 Q. If we turn to -- and it's numbered Page 23 in the
23 upper right-hand corner. I didn't give you all the
24 pages just to save some trees.

25 A. Right. I got it.

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1 Q. And I'll turn your attention to Rule 5.11 A on
 2 the second page -- or on this page of the exhibit.
 3 A. I have it.
 4 Q. And could you go ahead and read that?
 5 A. "Special orders. Rule 5.11 A, any bill,
 6 resolution or other measure may on any day be made a
 7 special order for a future time of the session by an
 8 affirmative vote of two-thirds of the members present."
 9 Q. And, Senator, let me ask you is that, you know,
 10 what we've been discussing here, the two-thirds rule or
 11 what you've also called the 21-vote rule, which is only
 12 required if there's 31 present but essentially the
 13 two-thirds rule; is that correct?
 14 A. No. Special order is different.
 15 Q. Okay. Can you tell me how special order is
 16 different?
 17 A. Well, the two-thirds is so that you can take a
 18 bill up out of its regular order. So, special orders,
 19 you make a motion to declare something a special order
 20 and it takes two-thirds. That's what this is referring
 21 to.
 22 Q. The language here in Rule 5.11 A, is this a
 23 description of how the two-thirds rule essentially
 24 works? Is that correct?
 25 A. Let's see. Which two-thirds rule are you talking

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1 about? The one to suspend the regular order or special
 2 orders?
 3 Q. I guess if you could explain to me the difference
 4 between suspending the regular order and the special
 5 orders.
 6 A. Okay. The regular order is before they could
 7 have taken up 362, they would have had to have heard
 8 Senate Bill 1 all the way to Senate Bill 361 before they
 9 could take it up. So, because they are going to take it
 10 up before any or all of those have been heard, that's
 11 out of its regular order. That requires two-thirds
 12 vote.
 13 A special order is a little bit -- it's another
 14 process or procedure, if you will. As it says, "Any
 15 bill, resolution or other measure may on any day be made
 16 a special order for a future time of the session by an
 17 affirmative vote of two-thirds."
 18 In other words, Ladies and Gentleman of the
 19 Senate, I move to make Senate Bill 14 a special order
 20 bill to be taken up April 1st, that requires two-thirds.
 21 That gives a time certain.
 22 In other words, as I explained on the Intent
 23 Calendar, I've given my intent I'm going to do it. By
 24 special order now, the Senate can vote for a time
 25 certain for a bill to be taken up, and that's what

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1 special orders are.
 2 Q. So, a special order requires a two-thirds vote?
 3 A. A two-thirds vote.
 4 Q. And if you look at Section D, so, Rule 5.11 D, if
 5 you could read that for me.
 6 A. "Notwithstanding Subsection A" -- and this is new
 7 language apparently -- "a bill or resolution relating to
 8 voter identification requirements reported favorably
 9 from the Committee of the Whole Senate may be set as a
 10 special order for a time at least 24 hours after the
 11 motion is adopted by a majority of the members of the
 12 Senate."
 13 Q. And so, that language there, "majority of the
 14 members of the Senate," is that different than the
 15 two-thirds requirement?
 16 A. Yes, it is. That's -- the majority of the
 17 members are 16.
 18 Q. Are you aware of the purpose of specifying voter
 19 identification requirements in Rule 5.11 D?
 20 MR. BRISSENDEN: Objection. Privileged.
 21 Instruct the witness not to answer under legislative
 22 privilege.
 23 A. Okay. I would not answer under -- on advice of
 24 the attorney under legislative privilege.
 25 Q. (BY MR. FISHER) Are you aware of any

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1 communications regarding Rule 5.11 D between yourself or
 2 your staff and Legislators in the Texas Legislature?
 3 A. No, there were none by me or staff that I know
 4 of.
 5 Q. And prior to 2009 -- and so we are -- you know,
 6 the date on this is January 14th, 2009. Are you aware
 7 of any similar -- and this is based on your experience
 8 as a long-time Senator -- similar carve-outs, if you
 9 will, that are similar in nature to Rule 5.11 D from the
 10 rule that we talked about in 5.11 A?
 11 MR. BRISSENDEN: Objection. Vague and
 12 ambiguous and conclusory.
 13 To the extent you can answer the question
 14 based upon information that's in the public record, you
 15 may do so.
 16 A. I don't recall if it's in the public record or
 17 not. I don't recall. There may have been. I don't
 18 remember any.
 19 Q. (BY MR. FISHER) Do you know if anyone -- are you
 20 aware of anyone in the Governor's Office being involved
 21 in drafting the language that appears in Rule 5.11 D?
 22 A. No.
 23 Q. Did you have a -- and some Senators -- do some
 24 Senators have a public stance on the two-thirds rule,
 25 either for it or against it?

<p style="text-align: center;">185</p> <p>1 A. (Witness indicated by nodding his head 2 affirmatively.) 3 Q. Is that a yes? 4 A. Yes. That's correct. Excuse me. 5 Q. And did you have a public stance on the 6 two-thirds rule while you were in the Senate? 7 A. Not publicly. 8 Q. Are you aware of any other communications related 9 to the rules contained in 5.11 A or D within the 10 Governor's office? 11 A. I'm not aware of any communication in the 12 Governor's Office about it. 13 Q. Did you ever have an occasion to vote on any 14 rules similar to Rule 5.11 A? 15 MR. BRISSENDEN: Objection. Vague. 16 A. I can't remember. 17 Q. (BY MR. FISHER) Is this similar to language that 18 you saw while you were serving in the Texas State 19 Senate, Rule 5.11 A? 20 MR. BRISSENDEN: Objection. Vague and 21 ambiguous. 22 THE WITNESS: I'm sorry? 23 MR. BRISSENDEN: You can answer. 24 A. D was never there when I was there but A, B and C 25 were there. Those were existing.</p>	<p style="text-align: center;">187</p> <p>1 A. That appears correct. Okay. Yeah. 2 Q. And did you or your staff have any communications 3 with any Legislators concerning the adoption of Rule 4 5.11 A through D? 5 A. I certainly didn't, and I don't know about staff. 6 Q. All right. 7 MR. FISHER: Let's go off the record here. 8 I think we've been at it for a while. Take ten minutes. 9 (Short recess.) 10 MR. FISHER: Back on the record. 11 Q. (BY MR. FISHER) Senator, if we could return back 12 to -- we looked at Exhibit 45 a minute ago, and that was 13 the Declaration of Senator Uresti. I'm just going to 14 point your attention to a different section of that 15 declaration. We'll look at paragraphs 10 and 11 now. 16 We've been talking about the two-thirds rule. 17 We see in 10, "In 2011, the Senate majority 18 exempted SB 14 outright from requiring support of 19 two-thirds of the Senate. In other words, the 20 requirement that at least 20 Senators agree on SB 14 21 before it could be called up for debate on the Senator 22 floor was waived." 23 And then we continue on to the next page and in 24 11 we see, "Requiring two-thirds of the Senate to 25 support a bill is a basic, foundational rule of the</p>
<p style="text-align: center;">186</p> <p>1 Q. (BY MR. FISHER) So, I'll hand you what's been 2 marked as Exhibit 170. 3 A. Okay. 4 Q. It's similar to the last exhibit. 5 A. Spencer, are we through with these? 6 Q. Yes. 7 A. Okay. 8 Q. Senate Rules adopted by the 82nd Legislature, 9 January 19, 2011. 10 A. Got it. 11 Q. And I'll turn your attention to Rule 5.11 A and D 12 and ask you if those appear similar to what you just 13 read in the previous exhibit? 14 A. They appear similar. 15 Q. And with regard to the rules in 2011 now, 16 referencing specifically the year 2011, are you aware of 17 any communications that the Governor's staff or you had 18 concerning Rule 5.11? 19 A. I had no communication, and I don't know about 20 staff. 21 Q. And is this -- would this operate in a similar 22 way as the rule we just looked at and discussed in 23 detail as far as the two-thirds vote for Rule 5.11 A and 24 then the majority vote for Rule 5.11 D in order to bring 25 a bill to the floor?</p>	<p style="text-align: center;">188</p> <p>1 Senate, which was highly unusual to waive, especially 2 when the waiver was only applied to one bill. Of the 3 thousands of bills awaiting debate on the Senate floor, 4 the two-thirds rule was only waived for SB 14 and was 5 applied to all other pending Senate bills." 6 Did you have a different view of whether -- and 7 we talked about Rule 5.11 D was highly unusual activity? 8 A. In regards to 10 -- excuse me -- 10 and 11 -- 9 MR. BRISSENDEN: Let me instruct you, first 10 of all, that to the extent that question requires you to 11 divulge information that you have, knowledge that you 12 have and have developed with regards to SB 14 as a part 13 of your work as the Director of Legislative Affairs for 14 the Governor, your thoughts, mental impressions, 15 opinions and analysis, I would instruct you not to 16 answer. 17 But to the extent that you can answer that 18 based upon matters of the public record, then you may do 19 so. 20 THE WITNESS: Can I ask you a question? 21 MR. BRISSENDEN: Do you need to take a 22 break? 23 THE WITNESS: A real quick question. 24 (Off the record.) 25 A. In regards to the statements in 10 and 11,</p>

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1 publicly, I think anybody could come to that conclusion.

2 Q. (BY MR. FISHER) So, I'm going to hand you
3 Exhibit No. 5, previously marked as Exhibit No. 5. And,
4 again, we're dealing with legislative language, which
5 maybe you thought you had gotten away from since you
6 left the Texas State Senate but I'm going to make you
7 relive today.

8 And so, Exhibit 5, we'll see that it's, again, a
9 bill. In the upper right-hand corner, you'll see SB No.
10 14. And on this one, I can point you to the last page,
11 and you can take a look at that, and I think that will
12 give you some context as far as the version you're
13 looking at.

14 A. Last page. Okay.

15 Q. And do you recognize this document?

16 A. Yes.

17 Q. And what is it?

18 A. It is a photocopy of a bill that was passed by
19 the Legislature and signed by the Governor into law.

20 Q. And was that in 2011? Is that correct?

21 A. May 27th, 2011.

22 Q. Are you familiar with SB 14 and its general
23 subject matter?

24 A. Yes.

25 Q. And what was that?

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1 A. This was a bill for the purpose of enhancing
2 public integrity of elections.

3 Q. I'm going to hand what you we'll mark as
4 Exhibit 195.

5 (Exhibit 195 marked.)

6 Q. (BY MR. FISHER) And you'll see at the top of
7 that is -- the words 2011 Session Accomplishments.

8 A. Okay.

9 Q. And if you look at the upper left-hand corner, we
10 see Governor's Priorities?

11 A. Got it.

12 Q. And we see there's one, two, three, four, five,
13 six, seven priorities listed underneath that heading.
14 And we see in the middle, the third one down is, "Voter
15 ID: Texas now requires voters to present a photo ID at
16 the polls, which will protect the integrity of our
17 elections." And have you seen this document before?

18 A. I haven't seen this document.

19 Q. Have you seen documents similar to this document?

20 A. I've seen documents similar to it, yes.

21 Q. And who typically creates these types of
22 documents in the Governor's Office?

23 A. Our Budget Planning & Policy Group, as well as
24 our press section.

25 Q. And for what purposes are these types of

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1 documents created?

2 A. As anybody in elected office, you want to give
3 kind of a report card out to your constituency of what
4 you were able to do during the legislative session. I
5 used to do it in when I was in the Senate, tell people
6 what bills I carried, passed, what they -- those types
7 of things.

8 Q. And so, the audience for this would be the public
9 at large?

10 A. Yes.

11 Q. Residents of Texas, I guess?

12 A. Public at large.

13 Q. And under voter ID, is it your understanding that
14 that would refer to SB 14? Is that correct?

15 A. It doesn't say it here, but yes, that was the
16 only, as we say, dog in the hunt.

17 Q. And do you believe it's accurate concerning --
18 its statement about the Governor's priorities is
19 accurate, concerning the Governor's priorities and voter
20 ID being one of those?

21 A. Yes.

22 Q. And did you and your staff consider voter ID to
23 be a priority in 2011?

24 A. Yes, we did.

25 Q. And was it part of the Governor's legislative

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1 agenda in 2011?

2 A. It was a priority. It was not a bill that we
3 asked to be drafted.

4 Q. And what's your understanding about -- if it was
5 not a bill that you asked to be drafted, what's your
6 understanding about the drafting of SB 14 as far as the
7 authorship of SB 14?

8 A. My understanding by that statement, it's not a
9 bill we asked to be drafted. For instance, I went to a
10 member on the sonogram and asked them to have it
11 drafted. I went to them on eminent domain reform. So,
12 that was one we were really pushing for after working
13 with various groups and all, as opposed to one that you
14 had authors that had carried the bill before that had
15 indicated they were going to file it again. As it was,
16 I think we saw it was prefiled. So, we already knew it
17 was in the hopper.

18 Q. And so, this -- and I guess you termed those, as
19 you just referred to the sonogram and the eminent domain
20 bills, those would be termed, I guess, initiatives from
21 the Governor's Office; is that correct?

22 A. Right.

23 Q. And so, voter ID was fairly characterized, based
24 upon your testimony, as not an initiative; is that
25 correct?

<p style="text-align: center;">193</p> <p>1 A. It was a priority but as far as a -- was this</p> <p>2 part of the package that we tried to get through, that's</p> <p>3 correct.</p> <p>4 Q. It's correct that it was not part of the package?</p> <p>5 A. It was not part of the package.</p> <p>6 Q. So, we'll do this one more time, and this is the</p> <p>7 last time we'll make you do this but we'll take a look</p> <p>8 at --</p> <p>9 A. Oh, Spencer.</p> <p>10 Q. I know you're enjoying yourself, Senator.</p> <p>11 We'll take a look at the allowable forms of ID</p> <p>12 under SB 14. And if you'll take a look at Exhibit</p> <p>13 No. 5, I think it might be right here.</p> <p>14 A. Got it.</p> <p>15 Q. And I can draw your attention to Page 9, and we</p> <p>16 have Section 14, 63.0101. And I'll ask you to just go</p> <p>17 to the middle of Page 10.</p> <p>18 A. Okay.</p> <p>19 Q. If you could take a look at those forms of ID.</p> <p>20 A. Middle of Page 10. Okay. Let's see. Okay.</p> <p>21 Q. And we've spent some time. We talked about HB</p> <p>22 1706 first. We talked about HB 218. We talked about SB</p> <p>23 362. And we talked about some of the things that those</p> <p>24 had in common, some of the things they didn't have in</p> <p>25 common. And some of the things we have talked about</p>	<p style="text-align: center;">195</p> <p>1 A. No. That was stricken in this version.</p> <p>2 Q. And where is it stricken?</p> <p>3 A. It's not in here. So, it was -- whereas the</p> <p>4 others had it in there, I don't see that in there.</p> <p>5 Q. We talked a little bit about -- well, let me ask</p> <p>6 you do you see a difference between SB 14 and SB 362 as</p> <p>7 far as the allowable forms of identification?</p> <p>8 A. Yes.</p> <p>9 Q. And do you see a difference between SB 14 and HB</p> <p>10 218 as far as the allowable forms of identification?</p> <p>11 A. Yes.</p> <p>12 Q. And do you see a difference between SB 14 and HB</p> <p>13 1706 as far as the allowable forms of identification?</p> <p>14 A. Yes.</p> <p>15 Q. Would you say there are more allowable forms of</p> <p>16 identification under SB 362 than SB 14?</p> <p>17 A. More.</p> <p>18 Q. And would you say there are more available under</p> <p>19 HB 218 than SB 14, more forms of allowable</p> <p>20 identification?</p> <p>21 A. More.</p> <p>22 Q. And would you say there are more forms of</p> <p>23 allowable identification under HB 1706 than SB 14?</p> <p>24 A. More.</p> <p>25 Q. And so, would you say that SB 14 is more or less</p>
<p style="text-align: center;">194</p> <p>1 along the way, we talked about nonphoto ID. Do you see</p> <p>2 any provision for nonphoto ID in SB 14?</p> <p>3 A. I'm not familiar with the United States</p> <p>4 citizenship -- oh, it says that contains -- so, I would</p> <p>5 assume that does. Passport I know does. Handgun</p> <p>6 license does. Military ID does. And driver's license</p> <p>7 does. I see none in this one.</p> <p>8 Q. And with regard to -- and we talked about -- we</p> <p>9 had a little bit of a discussion about the word</p> <p>10 "expiration date," so, I'll use a different term.</p> <p>11 As far as the expiration time period, if you take</p> <p>12 a look at what's number 1 now under 63.0101 --</p> <p>13 A. Got it.</p> <p>14 Q. -- we see the expiration time period listed there</p> <p>15 as expired no earlier than 60 days before the date of</p> <p>16 presentation. And is that different than what we saw in</p> <p>17 SB 362, HB 218 and HB 1706?</p> <p>18 A. Yes.</p> <p>19 Q. And what did we see in those bills as far as the</p> <p>20 expiration time period?</p> <p>21 A. 2 years as opposed to 60 days before the date of</p> <p>22 presentation.</p> <p>23 Q. And if you look at the allowable forms of ID, do</p> <p>24 you see in SB 14 any provision for IDs issued by federal</p> <p>25 agencies or state agencies?</p>	<p style="text-align: center;">196</p> <p>1 restrictive with regard to the allowable forms of</p> <p>2 identification than previous bills that have been</p> <p>3 offered and have failed passage in the Legislature?</p> <p>4 MR. BRISSENDEN: I'm going to object to the</p> <p>5 extent that requires the witness to offer his opinion as</p> <p>6 to SB 14. And I would consider that privileged under</p> <p>7 legislative privilege and instruct him not to answer.</p> <p>8 A. On the advice of my attorney, I would invoke</p> <p>9 legislative privilege.</p> <p>10 Q. (BY MR. FISHER) We talked about the election</p> <p>11 identification certificate. I believe we talked about</p> <p>12 that previously. Do you know what an election</p> <p>13 identification certificate is? And that's mentioned in</p> <p>14 number 1, 63.01011, and it actually is underlined</p> <p>15 language there.</p> <p>16 A. Where are you?</p> <p>17 Q. We're at Section 14, 63.0101, number 1 and then</p> <p>18 you have driver's license and after it says election</p> <p>19 identification certificate.</p> <p>20 A. Right.</p> <p>21 Q. Are you aware of what an election identification</p> <p>22 certificate is?</p> <p>23 A. No.</p> <p>24 Q. And are you aware of what a citizenship</p> <p>25 certificate is? And I'm referring to -- I guess it</p>

<p style="text-align: center;">197</p> <p>1 would be number 3. We have a number 4 stricken out in 2 front of it. 3 A. Right. I'm not familiar with that. 4 Q. And it talks about military identifications in 5 number 2. 6 A. Yes. 7 Q. And we have language here, and we talked about 8 expiration time period language. The expiration time 9 period language we have here is expired no earlier than 10 60 days before the date of presentation. Do you know 11 how often military identifications expire? 12 A. No, sir. 13 Q. Are you aware of any communications that either 14 you or your staff in the Governor's Office had regarding 15 the forms of ID that are included in SB 14? 16 MR. BRISSENDEN: I would instruct you not to 17 disclose communications that you had with regards to 18 specific provisions of SB 14 with your staff, other 19 state agencies, other Legislators, their staff, Texas 20 Legislative Council. Instruct you not to answer. 21 A. On the advice of attorney, I will not answer due 22 to privilege. 23 Q. (BY MR. FISHER) Let me be clear, I'm not 24 referring to the substance of your communications. I'm 25 asking whether you had any communications with anyone</p>	<p style="text-align: center;">199</p> <p>1 with analysts over a packet of bills, where are we on 2 this, where are we on that, where are we on this. 3 Q. And would that have been in person? 4 A. Yes. 5 Q. And was there anyone else present during that 6 discussion? 7 A. Yes. That would have been quite a few people in 8 our office. 9 Q. So, was this in the context of a meeting? Is 10 that correct? 11 A. Yes. During the legislative session -- it 12 depends on what part of the session it's in, we get 13 updates weekly, every two weeks, every three. Depends 14 on -- early parts of the session, you don't need those 15 but later in the session, we get updates, status reports 16 of where things are. 17 Q. And you mentioned previously that SB 14 was not 18 an initiative, as you've described it today, on behalf 19 of the Governor, that's correct? 20 A. Right. 21 Q. And so, with regard to input regarding the 22 drafting of SB 14, you're not aware of the Governor's 23 Office having any input into the drafting of SB 14? 24 A. I don't know of any -- I certainly didn't, and I 25 don't know -- and my staff surely wouldn't have. I</p>
<p style="text-align: center;">198</p> <p>1 about the forms of ID to be included in SB 14, either 2 you or your staff? 3 MR. BRISSENDEN: I believe the question goes 4 beyond simply asking him as a general matter whether 5 he's had communications regarding SB 14, and I instruct 6 him not to answer. 7 A. On the advice of my attorney, I will invoke the 8 privilege. 9 Q. (BY MR. FISHER) Did you or your staff have any 10 communications regarding SB 14? 11 A. I'm sorry? 12 Q. Did you or your staff have communications with 13 anyone regarding SB 14? 14 A. I did with staff. No one outside of the office. 15 Q. Okay. And who were the staff that you had 16 communication regarding SB 14? 17 A. Mike Schofield. 18 Q. And we've talked about Mr. Schofield today in 19 your testimony. Did Mr. Schofield conduct a policy 20 analysis of SB 14? 21 A. If he followed protocol, yes. 22 Q. And when did you have discussions with 23 Mr. Schofield about SB 14? 24 A. It would have occurred after the bill had passed 25 out of the Senate to the House in a general discussion</p>	<p style="text-align: center;">200</p> <p>1 don't know -- I don't know of any if we did. 2 Q. Are you aware of any correspondence the Governor 3 received urging him to veto SB 14? 4 A. I'm not aware. 5 Q. Any correspondence urging him to sign it? 6 A. I'm not aware of that either. 7 Q. Correspondence concerning general opposition to 8 SB 14? 9 A. I'm not aware of that. That would be Greg 10 Davidson. 11 Q. And are you aware of the purpose of SB 14? 12 A. Yes. 13 MR. BRISSENDEN: Objection. Asked and 14 answered. I believe -- to the extent -- let me instruct 15 the witness to the extent you can answer the question, 16 the Court has said you can answer that question as a 17 matter of general purpose. 18 Beyond that, though, in terms of divulging 19 or disclosing information about the intent of SB 14, 20 your opinions, your analysis, mental thought processes 21 about SB 14, that would be privileged. 22 A. Okay. The general intent was to enhance the 23 integrity of elections. 24 Q. (BY MR. FISHER) Do you know which bills the 25 Governor vetoed during the last session, which would be</p>

<p style="text-align: center;">201</p> <p>1 the session we're talking about?</p> <p>2 A. It was somewhat of a record for those that we did</p> <p>3 not veto this time. I say that again not in a facetious</p> <p>4 term but the Governor's very first session, he set</p> <p>5 almost a record of vetoes. And for the last three</p> <p>6 sessions, they've come down. Less than 15 bills were</p> <p>7 vetoed.</p> <p>8 (Exhibit 196 marked.)</p> <p>9 Q. (BY MR. FISHER) So, we'll move to Exhibit 196.</p> <p>10 And I'll just instruct you to keep Exhibit 5, SB 14,</p> <p>11 handy.</p> <p>12 A. Okay.</p> <p>13 Q. But we'll take a look at Exhibit 196. And you'll</p> <p>14 notice at the top of this document it reads, "After</p> <p>15 six-year fight, Perry signs voter ID into law."</p> <p>16 A. Right.</p> <p>17 Q. It's from the Texas Observer, and it's dated</p> <p>18 May 27, 2011?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And I'll just direct your attention to the third</p> <p>21 paragraph. And you'll see the quote -- and this is</p> <p>22 actually -- I just asked you about veto, and this is</p> <p>23 actually -- and we have a picture here of the Governor</p> <p>24 signing the bill into law.</p> <p>25 "This simple action, no more complicated than</p>	<p style="text-align: center;">203</p> <p>1 Q. And is cashing a check a fundamental right?</p> <p>2 A. No.</p> <p>3 Q. And is getting a library card a fundamental</p> <p>4 right?</p> <p>5 A. No.</p> <p>6 Q. Are you aware of any communications either you or</p> <p>7 your staff or the Governor's Office had concerning the</p> <p>8 impact of SB 14 on minority voters?</p> <p>9 MR. BRISSENDEN: I'm going to object and,</p> <p>10 under privilege, instruct the witness not to answer.</p> <p>11 A. On advice of attorney, I would invoke the</p> <p>12 privilege.</p> <p>13 Q. (BY MR. FISHER) And are you aware of --</p> <p>14 THE WITNESS: Is it privilege, clause?</p> <p>15 MR. BRISSENDEN: Privilege.</p> <p>16 THE WITNESS: Okay.</p> <p>17 Q. (BY MR. FISHER) And are you aware of any</p> <p>18 communications either you or your staff in the</p> <p>19 Governor's Office had about SB 14 with other current or</p> <p>20 former Legislators?</p> <p>21 MR. BRISSENDEN: Just to be clear, you're</p> <p>22 asking in general terms about SB 14?</p> <p>23 MR. FISHER: Correct.</p> <p>24 A. I had a conversation after the bill passed with</p> <p>25 the House author.</p>
<p style="text-align: center;">202</p> <p>1 cashing a check down at the HEB or applying for a</p> <p>2 library card down the street, will appropriately help</p> <p>3 maintain the integrity and fairness of our electoral</p> <p>4 system here in the Lone Star State,' Governor Perry said</p> <p>5 at the signing."</p> <p>6 A. Okay.</p> <p>7 Q. And in your role as Legislative Director, would</p> <p>8 you -- well, first of all, would you be at the signing?</p> <p>9 A. Not necessarily.</p> <p>10 Q. And are you aware of -- or do you play any role</p> <p>11 in formulating the quotes that appear here?</p> <p>12 A. No. Our press people handle all of the quotes,</p> <p>13 speeches, all of that.</p> <p>14 Q. And do you see any difference between voting and</p> <p>15 cashing a check or applying for a library card?</p> <p>16 A. Currently?</p> <p>17 Q. Yes. As you sit here today, do you see any</p> <p>18 difference in those activities?</p> <p>19 A. Yeah. I need a photo ID to cash a check. I</p> <p>20 don't need one to vote.</p> <p>21 Q. Well, do you have --</p> <p>22 A. Well, now I do.</p> <p>23 Q. Do you believe that voting is a fundamental</p> <p>24 right?</p> <p>25 A. I do.</p>	<p style="text-align: center;">204</p> <p>1 Q. (BY MR. FISHER) And the House author was?</p> <p>2 A. Patricia Harless.</p> <p>3 Q. And when did this -- you said after the bill</p> <p>4 passed? Do you have a --</p> <p>5 A. After the bill passed. I wasn't there during the</p> <p>6 floor debate. I was there later in the day, and she</p> <p>7 walked over to me and she said, "I passed voter ID."</p> <p>8 And my conversation was, "Congratulations. Good</p> <p>9 work."</p> <p>10 Q. And after it passed the House, it was signed into</p> <p>11 law by the Governor; is that correct?</p> <p>12 A. Not immediately but yeah, subsequent. Let's see.</p> <p>13 Well, let's see. When did it pass the House? Do we</p> <p>14 have that? Here we go. No, that's 362.</p> <p>15 (Off the record.)</p> <p>16 Q. (BY MR. FISHER) Okay. So, Senator, I'm going to</p> <p>17 hand you what's been previously introduced as Exhibit</p> <p>18 No. 8.</p> <p>19 A. Okay.</p> <p>20 Q. And, again, this is similar to the other Texas</p> <p>21 Legislature Online Histories that we've looked at, the</p> <p>22 difference being this is related to SB 14.</p> <p>23 A. Okay.</p> <p>24 Q. And so, my previous question was about signature</p> <p>25 by the Governor, and I asked you whether it was signed</p>

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1 by the Governor after it passed the House, SB 14?
 2 A. Right. We received the bill in our office on May
 3 the 18th of 2011, and the Governor signed the bill looks
 4 like 9 days later on May the 27th. The difference in
 5 time, we're allowed ten days, except this -- May 18th
 6 fell within that other time where we have 20 days to
 7 sign. So, there was a 9-day lag between the time we had
 8 it, it's reviewed and processed and then he actually is
 9 on campus, as we say, for him to actually officially
 10 sign the bill.

11 Q. You said that after it passed the House, you had
 12 a conversation with Representative Harless where you
 13 said, "Good job"?

14 A. Right.

15 Q. Is it a fair assumption that you -- the Governor,
 16 prior to getting this bill -- prior to getting any
 17 bill -- let's make it more general.

18 Prior to getting any bill, does the Governor
 19 already know whether he's going to sign it or not or is
 20 there some consideration period that takes place? And
 21 I'm talking generally, not just with relation to SB 14.

22 MR. BRISSENDEN: To the extent that -- well,
 23 first of all, objection. Speculation.

24 To the extent that you can answer that
 25 question as a general matter, I'll allow you to do so.

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1 To the extent that requires you to rely upon
 2 your experience based upon specific pieces of
 3 legislation during your experience as Director of
 4 Legislative Affairs, I'd instruct you not to answer.

5 A. Okay. Generally, you passed a water plan, he's
 6 in favor of planning for water, but somewhere in the
 7 process in its final -- before final passage, an
 8 amendment goes on that he can't, then generally that
 9 would offset but from general, he knows -- he won't sign
 10 anything until after we've gone through our review of
 11 bills that we've received.

12 Q. (BY MR. FISHER) And you mentioned earlier -- we
 13 talked about in detail your job you're currently doing,
 14 and you said one of those responsibilities is to monitor
 15 legislation. So, you would, as a general matter, keep
 16 the Governor informed of changes that happen to bills,
 17 amendments that happen on a real time basis as things
 18 are going on, you wouldn't wait until the bill passed to
 19 find out what's in it, for lack of a better term?

20 A. Generally, real time, no. Like the president,
 21 they've got a lot of other duties. He relies upon me
 22 plus staff to get down into the weeds on all the bills
 23 and see if there's anything.

24 And then we have a sit down with him and go over
 25 the bills for him to sign. And it's still his call at

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1 the end of the day but he won't in and of himself want
 2 to know or need to know until it's time for him to make
 3 a decision.

4 Q. And you said -- and we talked about the general
 5 intent of SB 14 is enhancing the integrity of elections;
 6 is that correct?

7 A. That's correct.

8 Q. And are you aware of any other purpose of SB 14,
 9 general purpose of SB 14 besides that?

10 A. I'm not aware.

11 Q. And are you aware of you or your staff having
 12 conversations with officials or Legislators from other
 13 states regarding SB 14?

14 A. I had no other conversations with people from
 15 other states or organizations.

16 Q. Are you aware of you or your staff in the
 17 Governor's Office having communications about SB 14 with
 18 interest groups?

19 A. No.

20 Q. And so, we talked about Mr. Schofield. We talked
 21 about, under a general protocol, a policy analysis would
 22 have been performed on SB 14; is that correct?

23 A. That's correct.

24 Q. And are you aware of the underlying facts upon
 25 which that analysis relied?

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1 A. No.

2 Q. Are you aware of you or your staff in the
 3 Governor's Office conducting any analysis as to how many
 4 registered voters possess the required forms of ID
 5 required by SB 14?

6 MR. BRISSENDEN: I'm going to instruct you
 7 at this time that that question invokes both the
 8 legislative process privilege as well as the
 9 deliberative process privilege, and I'll instruct you
 10 not to answer.

11 A. On the advice of my attorney, I will not answer
 12 under privilege.

13 Q. (BY MR. FISHER) Prior to signing SB 14, did you
 14 or anyone on your staff in the Governor's Office have
 15 communications regarding -- and we talked about it
 16 earlier -- the Voting Rights Act and SB 14?

17 MR. BRISSENDEN: Same instruction.

18 A. Okay. On advice of attorney -- my attorney, I
 19 will invoke the privilege.

20 Q. (BY MR. FISHER) Going back to the bill analysis
 21 that's performed on a bill, is any of that bill
 22 analysis -- and this is a general question -- does any
 23 of that bill analysis take into consideration the impact
 24 of the bill on citizens of Texas as a whole?

25 MR. BRISSENDEN: And the same instruction.

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1 THE WITNESS: The privilege instruction?

2 MR. BRISSENDEN: Yes, same instruction.

3 A. Okay. On advice of my attorney, I will not
4 answer that under privilege.

5 Q. (BY MR. FISHER) So, we talked about your role
6 earlier as Legislative Director with regard to bills
7 that are moving through the House and the Senate. Did
8 you or your staff play any role in a strategy ensuring
9 that SB 14 move through the House or the Senate?

10 A. I didn't. I don't think either one of my staff
11 did. I don't know if they did but they never reported
12 to me that they were actively involved at all.

13 Q. We also talked about your role -- your being able
14 to go on the floor. Were you on the floor during the
15 consideration of SB 14, on the Senate floor?

16 A. No.

17 Q. And did you read the floor debate transcript --

18 A. No.

19 Q. -- of SB 14?

20 A. No.

21 Q. Let me ask you a general question just based on
22 your experience as a Texas Legislator. Are you aware of
23 the term -- someone using the term, "I am not advised,"
24 on the floor in response to questions?

25 A. That's been used for years.

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1 Q. And what does that mean?

2 A. "I don't know. I'm not advised."

3 MR. FISHER: Let's take a quick break here.

4 (Short recess.)

5 MR. FISHER: We'll go back on the record.

6 Q. (BY MR. FISHER) Senator, after the passage of SB
7 14 and we did just see the article indicating that the
8 Governor signed the bill --

9 A. Yes.

10 Q. -- did you or your staff in the Governor's Office
11 have any role in seeking preclearance from the Justice
12 Department?

13 A. No. That would be our legal people or the
14 State's -- the Attorney General's Office, I guess. We
15 don't handle that part of it.

16 Q. So, that would be handled outside of the
17 Governor's Office; is that correct?

18 A. Yes.

19 Q. Okay. Senator, is it your understanding that SB
20 14 was submitted by the Governor as an emergency matter
21 to be considered by the 82nd Legislature in 2011?

22 A. I believe it was, yes.

23 Q. And I have -- actually, I'm going to hand you two
24 exhibits, and they'll be marked as 197 and 198.

25 A. Okay.

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1 (Exhibits 197-198 marked.)

2 Q. (BY MR. FISHER) They are not bill drafts, so,
3 they are hopefully a little easier to look at and
4 process.

5 A. Okay.

6 Q. On 197, you'll see on the top it says State of
7 Texas, Office of the Governor. To the Senate and House
8 of Representatives of the 82nd Texas Legislature,
9 Regular Session.

10 And then Exhibit 198 will be the Senate Journal,
11 82nd Legislature, Regular Session, and that's dated
12 January 24, 2011.

13 A. Got it.

14 Q. And so, what are we looking at? I guess with the
15 first exhibit, are you familiar with this document at
16 all? And that's Exhibit 197.

17 A. Yes.

18 Q. And what is that document?

19 A. This is a document that the Governor signed that
20 designated the concept of legislation that requires a
21 voter to present proof of identification when voting and
22 declaring that particular issue an emergency matter for
23 immediate consideration to the Senate and House.

24 Q. And if we take a look at the second exhibit,
25 which was Exhibit 198 --

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1 A. Okay.

2 Q. -- we see on the second page, which is actually
3 paginated as 54, a statement from the Office of the
4 Governor, and it uses the same language, "Legislation
5 that requires a voter to present proof of identification
6 when voting"?

7 A. Yes.

8 Q. And can you explain what this document is, based
9 upon your time in the Senate and your work for the
10 Office of Governor, what this proclamation constitutes
11 in this Senate bill?

12 A. The Constitution of Texas is specific in not only
13 setting when a legislation will begin but it's also
14 specific when members of the Legislature, either House,
15 may actually take up legislation.

16 The Constitution also provides an exception to
17 that limitation. The emergency order is the exception
18 or complies with the exception piece in the
19 constitution. It's a methodology that is used many
20 times in our history to allow both Houses of Legislature
21 to begin work in earnest at a faster pace.

22 Q. And in your experience as a Legislator and
23 working for the Governor's Office, just generally, who
24 would initiate a bill of this kind that circumvents -- I
25 guess what you said was the Texas Constitution?

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1 A. Right.

2 Q. And we can refer to it as an emergency article?

3 A. Right.

4 Q. Who would initiate that process?

5 A. Generally, it's the members wanting to -- knowing
6 they only have 140 days -- if I had my way when I was in
7 the Senate, I would want everything I had declared an
8 emergency so I could get the ball rolling sooner.

9 It is a methodology that the Governor can use on
10 his own but as a general matter, we wait until we
11 receive a request from an author.

12 Q. And in your experience as a member of the
13 Legislature, is the designation of an emergency item a
14 common event? Is it typical or is it something
15 atypical?

16 A. It's a common event.

17 Q. And by common event, do you mean something that
18 happens every session?

19 A. Every session for vast different topics. With
20 181 of them up there, every one of them wanting to get
21 going, especially those with some tenure and experience,
22 they know that the crush of the -- toward the end of the
23 session, the likelihood of a piece of legislation that
24 they have may get caught up in just the bundle and it
25 never gets out.

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1 Q. And you mentioned that each Legislator would like
2 to have all of their bills --

3 A. Right.

4 Q. -- designated as emergency legislation. Does
5 that ever happen, that all of your bills are designated
6 as emergency legislation?

7 A. No.

8 Q. Would you say it happens to the majority of a
9 Legislator's bills, as a general matter?

10 A. As a general matter, no, not under Governor
11 Perry.

12 Q. And under Governor Perry, has he, as a general
13 matter, resisted adding things as emergency items in
14 legislative sessions?

15 A. I don't know if I would use the term "resist."
16 He hasn't honored the request on several different
17 things.

18 Q. So, he's been asked to do this with regard to
19 some legislation and has declined in certain instances
20 to do that?

21 A. Right.

22 Q. And after the emergency designation is given to a
23 piece of legislation, does it automatically get
24 considered within the first 60 days?

25 A. It depends on each House. And as I laid out kind

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1 of the protocols that occur, if the speaker or the
2 Lieutenant Governor -- then it falls to them to see how
3 far on the gas pedal that they push, and then it would
4 fall to a committee Chair to see how much further down
5 the gas pedal they want to push to determine the
6 rapidity by which a bill is taken up.

7 This is a just a protocol that sets in place the
8 car moving down the track faster than what the
9 Constitution says they can be on the track of moving.

10 Q. And we talked a little bit about how this is
11 done. You mentioned it typically comes from members.

12 A. Right.

13 Q. Is there a formalized process or is this
14 something that -- for instance -- and we talked a long
15 time ago -- well, more than five hours ago -- about your
16 role as a gate opener.

17 A. Right.

18 Q. Would this be something where a member would seek
19 to talk to the Governor about an emergency bill issue?

20 A. It could be. In times past, it has been.

21 Q. And based upon your experience in the
22 Legislature, can declaring a bill an emergency item be
23 viewed as a political decision? I know it has a
24 procedural impact but can the designation itself be
25 considered a political move by the Governor or the

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1 member who sought emergency designation?

2 MR. BRISSENDEN: Objection. Speculation and
3 vague.

4 To the extent you can answer, go ahead.

5 A. Well, that was going to be my answer, I could
6 only speculate what the Governor's perception is of a
7 request. I don't know what -- in all candor, I don't
8 know what he considers.

9 I think he looks at the merits of the issue
10 rather than the politics of it, if it's something that,
11 one, he would want to support, two --

12 Q. (BY MR. FISHER) When the Governor makes a
13 decision to designate something as an emergency piece of
14 legislation, have you, in your experience, seen that
15 taken by the public and in the public arena as a
16 political decision on a certain bill, meaning does that
17 indicate that there's politics at work beyond the
18 procedure? And the procedure is the procedure but are
19 there politics involved beyond that?

20 MR. BRISSENDEN: Objection. Vague and
21 ambiguous. Calls for speculation.

22 A. Not by the public.

23 Q. (BY MR. FISHER) Do you see the designation of a
24 piece of legislation as an emergency bill as indicating
25 that the Governor supports that piece of legislation or

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1 is it more broad than that?

2 A. It's not any more broad. The language in this
3 particular one --

4 Q. And you're referring to Exhibit 197?

5 A. 197, legislation that requires a voter to present
6 proof of identification when voting, it doesn't say what
7 kind of proof or getting down into the details.
8 Obviously, that could be read that he's interested in
9 the integrity of the electoral process.

10 Q. And so, I'm going to kind of ask a question out
11 of context here but are you aware of who Travis Richmond
12 is?

13 A. Yes.

14 Q. And what is his role in Governor Perry's office?

15 A. Currently now he has been reassigned to my shop.
16 He was one of the gentlemen that I mentioned earlier
17 that's in there. He's our research person within my
18 shop.

19 Q. Okay.

20 A. If an issue is there, I'm going to really get --
21 what good researchers do best, they get down as far as
22 they can go, Travis does that for me now.

23 Q. And in his work doing research for you, does he
24 provide you with -- as a general matter, does he provide
25 you with memorandum or how does he convey the results of

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1 his research to you? I assume he doesn't hand you a
2 stack of documents?

3 A. No. It's verbal.

4 Q. Okay.

5 A. And he's only been in that role with me three
6 months maybe.

7 Q. And what was his previous role prior to coming to
8 work for you?

9 A. He was Special Assistant to Ray Sullivan, who is
10 the Chief of Staff.

11 Q. Do you know if he's an attorney?

12 A. No, he's not. He used to be a newspaper
13 reporter, probably Fort Worth Star Telegram, I believe.

14 Q. And are you aware of any communications with you
15 or your staff regarding designation of voter
16 identification as an emergency matter for the 82nd
17 Legislature?

18 A. I know within our office -- by our office, I'm
19 talking the Governor's Office -- once this bill was
20 prefiled, there was a discussion.

21 Q. And do you know who took part in that discussion?

22 A. I was at the meeting, Sarah Floerke, David
23 Eichler both -- at the time, Sarah was the House
24 liaison, David was the Senate liaison, Ray Sullivan,
25 Kathy Walt, Ray was the Chief of Staff, Kathy was the

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1 Deputy Chief of Staff, Brandy Marty, who was at that
2 time the Director of Budget Planning & Policy, and Jeff
3 Boyd, who at the time was our General counsel.

4 Q. And, so you said after prefiling, do you have a
5 general idea of what month this conversation took place?

6 A. That would have been in December or January. He
7 didn't file it until -- I believe the history line said
8 12-15.

9 Q. And what was the general nature of that
10 discussion?

11 MR. BRISSENDEN: I'm going to instruct the
12 witness that the question invokes a matter that is
13 privileged and not to disclose the substance of the
14 communication.

15 A. Okay. On the advice of attorney, I'll invoke the
16 privilege.

17 (Short recess.)

18 Q. (BY MR. FISHER) Okay. Senator, we'll go back on
19 the record.

20 So, in your role as the Legislative Director, you
21 monitor -- we talked about you monitoring bills. If a
22 bill has been designated as an emergency item, as a
23 general matter, is that something that you would follow
24 the progress of?

25 A. Not any more so than the myriad of other bills

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1 going through. I mean, it -- unless, of course, it was
2 one of our designated -- one of our priority bills.

3 Q. And as a general matter, are you aware of the
4 criteria that the Governor's Office uses to designate
5 bills as emergency matters?

6 MR. BRISSENDEN: To the extent that that
7 question requires you to disclose information, thoughts,
8 opinions, analysis, deliberations, motivations
9 pertaining to emergency declaration that we've been
10 discussing and SB 14, legislation pertaining to voter
11 identification bills, I would instruct you not to
12 answer.

13 To the extent you can answer that question
14 on a general -- based upon general information,
15 information that's in the record and based upon your
16 experience outside of the Governor's Office, you may
17 answer.

18 A. Okay. As a general, we don't have a set
19 criteria. Each instance is taken up on its own merits.

20 Q. (BY MR. FISHER) And were you or your staff in
21 the Governor's Office involved in any communications
22 regarding emergency items in the 2011 session?

23 A. Say it again.

24 Q. Were you or your staff involved in any
25 communications regarding the designation of emergency

<p style="text-align: center;">221</p> <p>1 items in the 2011 session?</p> <p>2 A. I was not.</p> <p>3 Q. Are you aware of your staff --</p> <p>4 A. Other than just the discussion phase that I</p> <p>5 talked about earlier with senior staff.</p> <p>6 Q. And that was the meeting that we had discussed</p> <p>7 previously, correct?</p> <p>8 A. Yeah.</p> <p>9 Q. So, I've got a list of other folks to ask you</p> <p>10 about, and these names, I don't believe, have come up</p> <p>11 previously. So, we just talked about -- was it</p> <p>12 Travis --</p> <p>13 A. Richmond.</p> <p>14 Q. Richmond. Can you tell me who Jeff Boyd is?</p> <p>15 A. Jeff Boyd, during the session, was our General</p> <p>16 Counsel. David Morales, who had to leave, is the</p> <p>17 General Counsel now. Jeff Boyd is now the Chief of</p> <p>18 Staff.</p> <p>19 Q. So, Jeff Boyd is now Chief of Staff for the</p> <p>20 Governor?</p> <p>21 A. Right. Ray Sullivan left, and Jeff Boyd is now</p> <p>22 Chief of Staff.</p> <p>23 Q. About what time did Jeff Boyd take over that</p> <p>24 position and did Mr. Morales take over the General</p> <p>25 Counsel position?</p>	<p style="text-align: center;">223</p> <p>1 witness that to the extent that requires you to disclose</p> <p>2 your thoughts, opinions, mental analysis and impressions</p> <p>3 about legislation involving voter ID legislation, I</p> <p>4 would instruct you not to answer.</p> <p>5 A. On advice of attorney, I would invoke the</p> <p>6 privilege.</p> <p>7 Q. (BY MR. FISHER) Have you heard publicly anyone</p> <p>8 make an assertion about photo ID being necessary because</p> <p>9 of a growth of noncitizen population in Texas?</p> <p>10 A. No.</p> <p>11 Q. Are you aware of any cases of voter fraud</p> <p>12 occurring in Texas?</p> <p>13 MR. BRISSENDEN: To the extent that question</p> <p>14 requires you to rely upon your analysis, opinions and</p> <p>15 thoughts, mental impressions, information that you</p> <p>16 learned about in your role as Governor in relation to SB</p> <p>17 14 or other voter ID legislation or, actually, in your</p> <p>18 role as Senator prior to serving in the Governor's</p> <p>19 Office in connection with pieces of legislation, I would</p> <p>20 instruct you not to answer.</p> <p>21 To the extent that you have information</p> <p>22 aside from your roles in the Legislature or in the</p> <p>23 Governor's Office or to the extent there's information</p> <p>24 that you're aware of in the public record, you may</p> <p>25 answer the question.</p>
<p style="text-align: center;">222</p> <p>1 A. Probably the closest I can get you is Ray</p> <p>2 probably left September, October, and Jeff moved over to</p> <p>3 take Chief of Staff two or three days later.</p> <p>4 Q. And do you know a Jimmy Blacklock?</p> <p>5 A. I know Jimmy. He's with the Attorney General's</p> <p>6 Office, works with Daniel Hodge.</p> <p>7 Q. And David Schneck?</p> <p>8 A. No, I don't know that name.</p> <p>9 Q. Reed Clay, do you know a Reed Clay?</p> <p>10 A. No, I don't know that name.</p> <p>11 Q. And for the folks that you mentioned you knew,</p> <p>12 and that was Jeff Boyd and Jimmy Blacklock, are you</p> <p>13 aware of them being involved in the preclearance process</p> <p>14 for SB 14?</p> <p>15 A. No.</p> <p>16 Q. Are you aware of any Legislators making public</p> <p>17 statements about illegal aliens voting?</p> <p>18 A. Like I say, I wasn't involved with the floor</p> <p>19 debate in either House. So, I haven't heard that</p> <p>20 statement made.</p> <p>21 Q. Do you believe that there's a connection between</p> <p>22 voter photo identification bills and growth of the</p> <p>23 noncitizen population in Texas?</p> <p>24 A. I wouldn't have any --</p> <p>25 MR. BRISSENDEN: I'm going to instruct the</p>	<p style="text-align: center;">224</p> <p>1 A. Okay. On the one part, I would follow the advice</p> <p>2 of my attorney.</p> <p>3 On the other, I have no personal knowledge of</p> <p>4 that.</p> <p>5 Q. (BY MR. FISHER) Are you aware of the Governor's</p> <p>6 Office receiving any complaints regarding voter fraud</p> <p>7 from constituents?</p> <p>8 A. That would be Greg Davidson. They wouldn't come</p> <p>9 to me.</p> <p>10 Q. Is it fair to say that -- and you've mentioned</p> <p>11 Greg Davidson a few times.</p> <p>12 A. Right.</p> <p>13 Q. Do the concerns -- and this is a general</p> <p>14 question -- concerns of citizens and constituents play a</p> <p>15 role in determinations about whether to support or</p> <p>16 oppose bills or propose initiatives?</p> <p>17 A. Sure. Citizen input we value in our office.</p> <p>18 Each week, Greg gives us an update on different issues,</p> <p>19 whatever they may be. We received 3,000 phone calls or</p> <p>20 letters on the last shuttle flight to save Johnson Space</p> <p>21 Center and that type of thing.</p> <p>22 Q. So, in the questions that I've asked you today,</p> <p>23 and we have referred to Mr. Davidson's name, is it fair</p> <p>24 to say that on any -- let's just go with regard to the</p> <p>25 last question I asked -- that issue of voter fraud did</p>

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1 not come up in any kind of context where you would be
2 made aware of constituent concerns through Mr. Davidson?

3 A. Absolutely.

4 Q. And are you aware of you or your staff receiving
5 any complaints about voter fraud from local election
6 officials?

7 A. I didn't receive any. I don't know about staff.

8 Q. And with regard to your knowledge -- public
9 knowledge, information that's in the public record, are
10 you aware of any incidents of mail-in ballot fraud
11 occurring in the State of Texas?

12 A. I have no knowledge of that.

13 Q. And we've got another name to ask you about. Do
14 you know an Eric Wilson?

15 A. Yes.

16 Q. And what is his role in the Governor's Office?

17 A. He's not in the Governor's Office. He's over at
18 the Secretary of State's office, if it's the same Eric
19 Wilson. His father used to be a House member years ago.

20 Q. And what does he do at the Secretary of State's
21 office?

22 A. I'm not real sure.

23 (Off the record.)

24 MR. FISHER: At this time, we'll go back on
25 the record.

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1 And, Mr. Harris, if you'd like to go ahead
2 with your questioning for the Senator.

3 MR. HARRIS: Thank you.

4 EXAMINATION

5 Q. (BY MR. HARRIS) I'm Adam Harris with the law
6 firm of Fried, Frank, Harris, Shriver & Jacobson. We
7 are counsel to defendant-intervenors, Texas League of
8 Young Voters Education Fund.

9 I'll keep this brief because I know you've been
10 answering questions for a long time now.

11 My first question is are you familiar with the
12 group known as the King Street Patriots?

13 A. The what?

14 Q. The King Street Patriots.

15 A. No, I'm not familiar with that group.

16 Q. You're not? Okay. How has the Governor done --
17 Governor Perry done in his elections amongst Hispanic
18 voters?

19 MR. BRISSENDEN: Objection. Vague.

20 A. I don't have anything to do with elections. I
21 don't know.

22 Q. (BY MR. HARRIS) Do you generally follow the
23 Governor's election results?

24 A. Only if he won, or the presidential race if he
25 lost.

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1 Q. You don't have any understanding as to how the
2 Governor has done amongst Hispanic voters?

3 MR. BRISSENDEN: Same objection.

4 Q. (BY MR. HARRIS) You can answer the question.

5 A. I have no idea.

6 Q. How about amongst African American voters, do you
7 have any understanding as to how the Governor has done
8 in his elections amongst African American voters in
9 Texas?

10 MR. BRISSENDEN: Objection. Vague and
11 ambiguous.

12 A. No, sir.

13 Q. (BY MR. HARRIS) I think you testified previously
14 that unlike some of the previous voter ID bills, SB 14
15 would not allow an individual to vote with a student ID.
16 Is that your understanding?

17 A. If you'll give me a moment to relook at -- is
18 that Exhibit 5?

19 Q. Certainly.

20 A. For the five criteria in Senate Bill 14, I don't
21 see that on there.

22 Q. Do you have any understanding as to why SB 14
23 does not allow an individual to vote with a student ID?

24 MR. BRISSENDEN: Objection. Privileged.
25 Instruct the witness not to answer.

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1 Q. (BY MR. HARRIS) Senator, putting aside any
2 privileged communications, do you have any understanding
3 based on the public record as to why SB 14 does not
4 allow an individual to vote with a student ID?

5 MR. BRISSENDEN: Same objection. I instruct
6 the witness not to answer.

7 MR. HARRIS: Well, I believe the question
8 was putting aside any privileged communications, whether
9 the Senator has any knowledge based on the public
10 record. So, I would ask that you reconsider the
11 objection.

12 MR. BRISSENDEN: And to the extent the
13 question requires him to do an analysis of information
14 that is both within the public record and not within the
15 public record, that question would be privileged, and I
16 would instruct him not to answer.

17 A. On my advice of my attorney --

18 Q. (BY MR. HARRIS) We'll move on.


19 Senator, do you have any reason to think that a
20 student ID is not a good indicator that someone is who
21 they say they are?

22 A. Say it again.

23 Q. Do you have any reason to think that a student ID
24 would not be a good indicator that someone is who they
25 say they are?

<p style="text-align: center;">229</p> <p>1 MR. BRISSENDEN: I'm going to instruct the</p> <p>2 witness not to answer the question. Again, it's</p> <p>3 pertaining to particular provisions within SB 14.</p> <p>4 Instruct the witness not to answer.</p> <p>5 Q. (BY MR. HARRIS) Beyond any particular provisions</p> <p>6 of SB 14, in general, do you have any opinion as to</p> <p>7 whether a student ID would or would not be a good</p> <p>8 indicator if someone is who they say they are?</p> <p>9 MR. BRISSENDEN: Again, same instruction.</p> <p>10 Q. (BY MR. HARRIS) I believe you testified earlier</p> <p>11 that Governor Perry designated voter ID as an emergency</p> <p>12 item; is that correct?</p> <p>13 A. That's correct, sir.</p> <p>14 Q. In general, putting aside any particular piece of</p> <p>15 legislation, how does the Governor or the Governor's</p> <p>16 Office decide which legislation to designate as an</p> <p>17 emergency item?</p> <p>18 MR. BRISSENDEN: Objection. Asked and</p> <p>19 answered.</p> <p>20 Q. (BY MR. HARRIS) You can answer the question. I</p> <p>21 apologize if my phone connection was not great during</p> <p>22 this but you may answer the question.</p> <p>23 MR. BRISSENDEN: I caution you that to the</p> <p>24 extent that that question requires you to divulge</p> <p>25 information that you have, knowledge that you've learned</p>	<p style="text-align: center;">231</p> <p>1 A. On the advice of my attorney, I'm not able to</p> <p>2 answer the question.</p> <p>3 Q. Have you ever heard any Texas voter or any of the</p> <p>4 constituents in Texas express the view that the current</p> <p>5 system of elections in Texas lacks integrity?</p> <p>6 A. I have not -- I have no knowledge of that.</p> <p>7 Q. Now, have you ever heard any Texas voter or</p> <p>8 constituent in Texas express the view that he or she</p> <p>9 lacks confidence in the current system of elections in</p> <p>10 Texas?</p> <p>11 A. They have not expressed that to me.</p> <p>12 MR. HARRIS: At this time, I have no further</p> <p>13 questions.</p> <p>14 THE WITNESS: Thank you, Mr. Harris.</p> <p>15 FURTHER EXAMINATION</p> <p>16 Q. (BY MR. FISHER) Okay. Senator, we talked</p> <p>17 about -- today we've talked about HB 1706, HB 218, SB</p> <p>18 362 and SB 14, and we've kind of did a bill comparison.</p> <p>19 We looked at the individual provisions of those bills</p> <p>20 today. Are you aware of the circumstances changing in</p> <p>21 Texas with regard to the electoral process during the</p> <p>22 consideration of those bills? And that would be from</p> <p>23 2005 to 2011.</p> <p>24 MR. BRISSENDEN: To the extent that that</p> <p>25 question requires you to divulge information that you</p>
<p style="text-align: center;">230</p> <p>1 as a part of your role as Director of Legislative</p> <p>2 Affairs in the Governor's Office, I would instruct you</p> <p>3 not to answer the question.</p> <p>4 To the extent that you can, I believe you've</p> <p>5 already answered the question in general terms, you may</p> <p>6 do so.</p> <p>7 A. In general terms, Mr. Harris, we have no written</p> <p>8 criteria that is used. It's strictly up to him. I've</p> <p>9 carried things to him before and he gave me a flat,</p> <p>10 "No," and I've carried other things and he said, "Let's</p> <p>11 do it." It's strictly up to him.</p> <p>12 Q. (BY MR. HARRIS) You testified earlier that the</p> <p>13 general purpose of SB 14 was to, quote, enhance the</p> <p>14 integrity of elections. Do you recall that testimony?</p> <p>15 A. Yes.</p> <p>16 Q. Do you assert that the current election system in</p> <p>17 Texas lacks integrity?</p> <p>18 MR. BRISSENDEN: To the extent that that</p> <p>19 question requires you to divulge your opinions, your</p> <p>20 analysis, thought processes in regards to voter ID</p> <p>21 legislation, including SB 14, I would instruct you not</p> <p>22 to answer the question.</p> <p>23 A. On advice of my attorney, I won't answer.</p> <p>24 Q. (BY MR. HARRIS) Senator, are you able to answer</p> <p>25 the question?</p>	<p style="text-align: center;">232</p> <p>1 analyzed or considered or did not consider as a part of</p> <p>2 your analysis, consideration, deliberations in</p> <p>3 connection with voter ID legislation and including SB</p> <p>4 14, I would instruct you not to answer.</p> <p>5 A. On advice of my attorney, I cannot answer.</p> <p>6 Q. (BY MR. FISHER) And do you believe SB 14 will</p> <p>7 have an effect on voting in Texas?</p> <p>8 MR. BRISSENDEN: Same objection. Same</p> <p>9 instruction.</p> <p>10 A. Same answer, on advice of my attorney.</p> <p>11 Q. (BY MR. FISHER) As a general matter, does SB 14</p> <p>12 require a voter to do something that they are not</p> <p>13 required to do now under current law as it stands?</p> <p>14 A. Yes.</p> <p>15 Q. At any time since the passage of SB 14, have you</p> <p>16 come to believe it was passed with a discriminatory</p> <p>17 purpose?</p> <p>18 MR. BRISSENDEN: To the extent that that</p> <p>19 question requires you to divulge your opinions, your</p> <p>20 analysis, your views of SB 14 as part of your role in</p> <p>21 the Governor's Office in connection with that work, I</p> <p>22 instruct you not to answer.</p> <p>23 A. On the advice of the attorney -- my attorney, I</p> <p>24 will invoke not to answer.</p> <p>25 Q. (BY MR. FISHER) And you said that SB 14 will</p>

<p style="text-align: center;">233</p> <p>1 require some action beyond what is currently required</p> <p>2 under Texas law in order for a person to vote, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Do you believe that that requirement will have</p> <p>5 any effect on minority voters?</p> <p>6 MR. BRISSENDEN: And I would instruct you</p> <p>7 under the privilege not to answer the question.</p> <p>8 A. On the advice of my attorney, I invoke the</p> <p>9 privilege.</p> <p>10 Q. (BY MR. FISHER) Have you heard any Texas</p> <p>11 Legislator express to you or to your staff the view that</p> <p>12 SB 14 could prevent a legitimately registered voter from</p> <p>13 voting in Texas?</p> <p>14 MR. BRISSENDEN: And I would instruct the</p> <p>15 witness not to disclose communications that you've had</p> <p>16 with either your staff, with other Legislators and their</p> <p>17 staff and not to disclose those communications in</p> <p>18 answering the question. Instruct you not to answer.</p> <p>19 A. On the advice of my attorney, I will honor my</p> <p>20 attorney's request, however you want to say it.</p> <p>21 Q. (BY MR. FISHER) Senator, I only have about ten</p> <p>22 more bills for us to go through and then we're --</p> <p>23 A. Okay. I like this.</p> <p>24 Q. The old Legislator is coming out in you.</p> <p>25 Would you like to change any of the answers</p>	<p style="text-align: center;">235</p> <p>1 A. Okay. So, I don't want to change my answer then.</p> <p>2 I just saw that and I said, "Well, wait a minute, I</p> <p>3 answered you one way a while ago."</p> <p>4 Q. The question we asked on SB 14 was whether it</p> <p>5 provided -- and we saw in the other bills --</p> <p>6 A. Okay.</p> <p>7 Q. -- there was kind of a spelling out and we talked</p> <p>8 about the issues of nonphoto ID --</p> <p>9 A. Right.</p> <p>10 Q. -- and if there was something similar that you</p> <p>11 saw in SB 14.</p> <p>12 A. Okay.</p> <p>13 Q. Do you see anything similar with regard to</p> <p>14 nonphoto ID in SB 14 that we saw in HB 218, SB 362 or HB</p> <p>15 1706?</p> <p>16 A. Did I see anything different?</p> <p>17 Q. Do you see anything similar, meaning we looked at</p> <p>18 those bills and we saw Section B --</p> <p>19 A. There's some similarities but the vast majority</p> <p>20 are different.</p> <p>21 Q. So, the vast majority are different in SB 14 than</p> <p>22 in the previous bills; is that correct?</p> <p>23 A. Right, as far as inclusive of these other things.</p> <p>24 Q. Okay. Is there any information that you recall</p> <p>25 now? So, any questions I asked you where you said you</p>
<p style="text-align: center;">234</p> <p>1 you've provided today, Senator, now that you've had a</p> <p>2 chance to reflect on answers you've given? And you did</p> <p>3 change one earlier. Is there anything else you'd like</p> <p>4 to change as we sit here?</p> <p>5 A. Just looking at this --</p> <p>6 Q. And by "this," you're referring to?</p> <p>7 A. To Exhibit 5.</p> <p>8 Q. Okay.</p> <p>9 A. On the question relating to forms of</p> <p>10 identification that do not have a photo associated --</p> <p>11 and I want to -- they can under -- on Page 1, under</p> <p>12 written documentation -- well, it's -- there starting on</p> <p>13 line 5 and then going down to line 19, number 2 there on</p> <p>14 line 17, a statement in a form prescribed by the</p> <p>15 Secretary of State that the applicant does not have a</p> <p>16 form of identification acceptable under 63.0101, I don't</p> <p>17 know what preceded -- the preceding number 1 A and B</p> <p>18 have to do with a disability or whatever. I don't know</p> <p>19 if 2 provides if you don't have one of these other ones</p> <p>20 that this one then comes into play and you do that just</p> <p>21 by filling out a form with the Secretary of State. I</p> <p>22 don't know what that is.</p> <p>23 Q. Well, Senator, if you look at little i, which is</p> <p>24 on Section 7, I think you'll see that it's referring to</p> <p>25 the basis of disability.</p>	<p style="text-align: center;">236</p> <p>1 didn't remember that you later remembered?</p> <p>2 A. No.</p> <p>3 Q. Anything additional that you want to share at</p> <p>4 this time?</p> <p>5 A. No.</p> <p>6 MR. FISHER: So, I have no additional</p> <p>7 questions. Thank you, Senator.</p> <p>8 I think we'll, as the practice has been,</p> <p>9 keep it open.</p> <p>10 THE WITNESS: Okay.</p> <p>11 MR. FISHER: And with that, we'll conclude.</p> <p>12 (Whereupon at 4:59 p.m. the</p> <p>13 deposition was adjourned.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: center;">237</p> <p>1 ERRATA SHEET</p> <p>2</p> <p>3 Correction Page Line</p> <p>4</p> <p>5 _____</p> <p>6</p> <p>7 _____</p> <p>8</p> <p>9 _____</p> <p>10</p> <p>11 _____</p> <p>12</p> <p>13 _____</p> <p>14</p> <p>15 _____</p> <p>16</p> <p>17 _____</p> <p>18</p> <p>19 _____</p> <p>20</p> <p>21 _____</p> <p>22</p> <p>23 _____</p> <p>24</p> <p>25</p>	<p style="text-align: center;">239</p> <p>1 STATE OF TEXAS *</p> <p>2 COUNTY OF HARRIS *</p> <p>3</p> <p>4 I, the undersigned certified shorthand reporter</p> <p>5 and notary public in and for the State of Texas, certify</p> <p>6 that the facts stated in the foregoing pages are true</p> <p>7 and correct.</p> <p>8 I further certify that I am neither attorney or</p> <p>9 counsel for, nor related to or employed by, any of the</p> <p>10 parties to the action in which this deposition is taken</p> <p>11 and, further, that I am not a relative or employee of</p> <p>12 any counsel employed by the parties hereto, or</p> <p>13 financially interested in the action.</p> <p>14</p> <p>15 SUBSCRIBED AND SWORN TO under my hand and seal of</p> <p>16 office on this the 11th day of June, 2012.</p> <p>17</p> <p>18 <i>Edith A. Boggs</i></p> <p>19 EDITH A. BOGGS, CSR</p> <p>20 Certified Shorthand Reporter and</p> <p>21 Notary Public in and for</p> <p>22 the State of Texas</p> <p>23 Notary Expires: 5-10-2016</p> <p>24 Certificate No. 3022</p> <p>25 Expiration date: 12-31-2013</p> <p> Esquire Deposition Solutions, LLC</p> <p> Registration No. 3</p> 
<p style="text-align: center;">238</p> <p>1 I, SENATOR KENNETH LYNN ARMBRISTER, have read the</p> <p>2 foregoing deposition and hereby affix my signature that</p> <p>3 same is true and correct, except as noted above.</p> <p>4 _____</p> <p>5 SENATOR KENNETH LYNN ARMBRISTER</p> <p>6</p> <p>7 THE STATE OF _____</p> <p>8 COUNTY OF _____</p> <p>9 Before me, _____, on this day personally</p> <p>10 appeared SENATOR KENNETH LYNN ARMBRISTER, known to me</p> <p>11 (or proved to me under oath or through _____)</p> <p>12 (description of identity card or other document) to be</p> <p>13 the person whose name is subscribed to the foregoing</p> <p>14 instrument and acknowledged to me that they executed the</p> <p>15 same for the purposes and consideration therein</p> <p>16 expressed.</p> <p>17</p> <p>18 Given under my hand and seal of office this _____ day</p> <p>19 of _____, _____.</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC IN AND FOR</p> <p>23 THE STATE OF _____</p> <p>24</p> <p>25</p>	